

DOCUMENT RESUME

ED 253 999

EC 171 708

TITLE LRE: Developing Criteria for the Evaluation of the Least Restrictive Environment Provision. Exploring Issues in the Implementation of P.L. 94-142.

INSTITUTION INC Resources, Inc., Columbus, Ohio.; Research for Better Schools, Inc., Philadelphia, Pa.

SPONS AGENCY Bureau of Education for the Handicapped (DHEW/OE), Washington, D.C.

PUB DATE May 79

NOTE 236p.

PUB TYPE Viewpoints (J20) -- Collected Works - General (020)

EDRS PRICE MF01/PC10 Plus Postage.

DESCRIPTORS *Compliance (Legal); *Disabilities; Elementary Secondary Education; Federal Legislation; *Mainstreaming; Models; Program Implementation; *Student Placement

IDENTIFIERS *Education for All Handicapped Children Act

ABSTRACT

Four commissioned papers on approaches to implement the least restrictive environment (LRE) provision of P.L. 94-142, the Education for All Handicapped Children Act, are presented. The authors were asked to develop criteria applicable to the local level and appropriate to a variety of contexts. Papers are presented from the following authors: Sheila Lowenbraun and James Affleck ("Least Restrictive Environment"); Gregory Aloia ("Assessment of the Complexity of the Least Restrictive Environment Provision of Public Law 142"); Jay Gottlieb ("Placement in the Least Restrictive Environment"); and Thomas Gilhool and Edward Stutman ("Integration of Severely Handicapped Students"). Responses to the papers of a panel of educators are presented in terms of such topics as letter vs. spirit of the law, the goal of LRE provision, and the implementing regulations. Recommendations regarding the development of guides or models offering self-study strategies to local education agencies are offered. A three-page reference list is included. (CL)

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Exploring Issues in the Implementation of P.L. 94-142

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LRE

Developing Criteria for the Evaluation of the Least Restrictive Environment Provision

Department of Health, Education and Welfare
Office of Education
Bureau of Education for the Handicapped

RESEARCH FOR BETTER SCHOOLS, INC.

444 North 7th Street, Philadelphia, Pennsylvania 19123

May 1979

Published by Research for Better Schools, Inc.

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FOREWORD

The papers printed here were commissioned by the Bureau of Education for the Handicapped to investigate issues of quality in the implementation of the Due Process Procedural Safeguards provisions of P.L. 94-142 (Section 615 of the Education of the Handicapped Act). A panel of educational practitioners was also convened to discuss the papers and provide recommendations to the Bureau. Their comments, together with the papers, represent the most recent thinking and activities of a number of highly qualified professionals. While the views expressed in the papers are those principally of the authors, each writer has drawn upon the experiences, writings, research, and observations of various other educators in addition to their own. The care with which both the authors and the panelists shared their thoughts and ideas is obvious throughout this publication. It is our hope that this document will not only be informative, but that it will stimulate other thoughts on the evaluation of effectiveness of implementation.

Edwin W. Martin
Deputy Commissioner
Bureau of Education for the Handicapped

ACKNOWLEDGEMENTS

Many have helped BEH in conducting the Criteria Study. Special thanks are due to staff at Buffington & Associates who played an important role in arranging the panel meeting and assembling the developed papers into this monograph. Appreciation is extended to Adrienne McCollum for her overall project direction, and to Angela Edwards, Assistant Project Director, for coordination of the countless details involved in setting up the panels and producing the monograph. Acknowledgement is also made of the efforts of Frances Fuchs in assistance with the development of study questions for the panel, and P. W. Robinson for support services.

As considerable "in-house" efforts also went into this study, special thanks are also in order for State Program Studies Branch staff — Mary Kennedy, Kathleen Fenton, Lou Danielson, Pat Morrissey, and Jim Maxwell — for review of drafts of the study papers. Finally, appreciation is extended to the authors of papers, and other panel participants, for their insights and suggestions.

Linda G. Morra
Project Officer
Bureau of Education for the Handicapped

PART A

Introduction: Overview of the Study

Linda G. Morra

Bureau of Education for the Handicapped

By now the least restrictive environment provision of Public Law 94-142, the Education for All Handicapped Children Act of 1975, is familiar to most educators. Section 612(5)(B) of the law requires assurances that to the greatest extent appropriate, placement maximizes the education of the handicapped child with his or her nonhandicapped peers. This section of the law specifically states that "... to the maximum extent appropriate, handicapped children ... are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature of severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." The history of the least restrictive environment (LRE) provision is tied to the courts which, in cases such as PARC and Mills, established the principle that given two or more alternative educational settings, the handicapped child should be placed in the least drastic or most normal setting appropriate. There should be as little interference with the normal educational process as possible.

These judicial mandates left the implementation of the concept to educators. That is, educators had to determine the definition and application of "appropriateness" for each child. While Section 612(5)(B) of P.L. 94-142 provides some additional specification of the LRE concept, it is not expected that the definition and implementation of the concept will be straight-forward: "appropriateness", "nature or severity of the handicap", and "satisfactory education in regular classes with supplementary assistance" are terms subject to varying interpretations.

Thus, while as a concept the meaning of the least restrictive environment is clear, its every day translation into implementation is not. Increasingly, the questions have been asked: How does one determine which of various alternative delivery settings is the least restrictive environment appropriate for a given child? After a child has been placed, how does one monitor the continued appropriateness of the placement? At a school district level, what would quality implementation of the least restrictive environment look like? The regulations to P.L. 94-142 provide a framework for implementation of the LRE provision, but leave many specifics to local school district discretion.

THE REGULATIONS

Section 121a.551 of the regulations requires local education agencies to have various alternative placements available for the education of handicapped children. It is Section 121a.552 which presents some of the main factors to be considered in determining a child's placement. The comment to this section of the regulations indicates that the overriding rule in the section is that placement decisions must be made on an individual basis. The section itself states that each

handicapped child's educational placement is to be determined at least annually, based on his or her individualized education program (IEP), and as close as possible to the child's home. Unless a child's IEP requires some other arrangement, the child also is to be educated in the school he or she would attend if not handicapped. Finally, in selecting the LRE, consideration is to be given to any potential harmful effect on the child or on the quality of services he or she needs.

The regulations are concerned not only with the academic integration of handicapped children with nonhandicapped children to the maximum extent appropriate, but also integration of handicapped children in nonacademic and extracurricular services and activities. Section 121a.553 states that in providing or arranging for the provision of non-academic and extracurricular activities, each public agency is to insure that each handicapped child participates with nonhandicapped children in those services and activities to the maximum extent appropriate to the needs of that child. These services and activities would include, for example, recess, meals, art, music, industrial arts, home economics, special interest clubs sponsored by the schools, counseling services, and athletics.

THE APPROACH

The basic question remains of: How can the quality of various procedures undertaken to implement the LRE provision of P.L. 94-142 be determined? The question is of relevance to the Bureau of Education for the Handicapped (BEH) and state and local education agencies, but for differing reasons. While the monitoring efforts of the BEH are intentionally limited to determining compliance, and emphasis on State rather than local compliance, BEH is interested in the development and dissemination of best-practice implementation procedures. State education agencies (SEAs), responsible under P.L. 94-142 for monitoring local implementation of the LRE provision and providing technical assistance, must also develop state standards for LRE implementation. Thus, this question has importance for SEAs. Finally, local education agencies (LEAs) may be interested in conducting their own internal evaluations of LRE implementation.

It is evident that in order for the above question to be addressed, criteria are needed which can be used to evaluate implementation. To stimulate thought regarding definitions of quality, the BEH undertook a study in October, 1977 to explore issues of quality in implementation of four provisions of P.L. 94-142. This monograph summarizes activities related to one of those provisions -- the least restrictive environment. The study had two major parts. First, four papers were commissioned to provide professional judgements of quality implementation of the LRE provision. Second, a panel of education practitioners was convened to discuss the papers and make recommendations to BEH concerning their value and use.

In conceptualizing the study, it was recognized that evaluation never takes place in a vacuum; standards are always involved. Judgements of the performance of a program or procedures are measured against either explicit or implicit standards. Standards are derived from experience, knowledge and/or values. The difficulty recognized is that standards will vary according to whose experience, knowledge, and values serve as the basis for the standards. For example, the regulations state that each child's educational placement should be based on his or her IEP. Criteria for the evaluation of LRE implementation might vary, however, depending on which component of the IEP one chooses to focus. Based on one's definition of "appropriate", the focus might be the child's current levels of performance, the special education and related services required by the child, or the statement of goals and objectives. To illustrate further, if one's definition of LRE appropriateness is based on child performance levels, the standard might be that the LRE is an appropriate match between child and environmental characteristics. An evaluation criterion might be that the performance levels of the child "match" the performance levels of the other children in the setting selected as the LRE for the child. On the other hand, if one's definition is based on the special education and related services needed by the child, the standard might be that the LRE is an appropriate service delivery setting based on a cascade type of service delivery model. An evaluation criterion might be that the intensity of the special education and related services required by the child is reflected by the level of the setting on the cascade. Finally, if the last definition was posited, the standard might be achievement of a social acceptance goal. Evaluation criteria to determine the appropriateness of the LRE might be some change score on a measure of social acceptance or a specified change in a behavior index.

Because a variety of standards are possible, authors were selected for this study whose experience, knowledge, and values would tend to be disparate. Naturally, the four papers do not represent all the possible standards of quality which could be identified. They do represent, however, four different approaches to the difficult issue of quality in relation to implementation of the LRE provision.

THE LRE POSITION PAPERS

Authors were provided guidelines which first expanded on the subject of qualitative implementation of the LRE provision. Progress in implementation was conceptualized as a continuum; conformance with the letter of the law was viewed as one end of the continuum (minimal implementation), while a full meeting of the intent or spirit of the law would form the other (maximal) end of the continuum. Authors were to use this concept of progress in implementation in developing their papers.

Secondly, the guidelines requested that authors develop criteria that would be

applicable at the LEA level. Thus, the developed criteria could be used by LEAs interested in evaluating their own progress in implementation of the LRE provision, as well as by SEAs in conducting their own evaluations. The guidelines further indicated that criteria which would involve the collection of data either already available or relatively accessible to LEAs at a low cost of both time and money would be most useful.

Third, authors were requested to develop criteria for two specific components of LRE: (1) procedures undertaken by LEAs to implement the LRE provision, and (2) appropriateness of actual placements made by LEAs. Thus, authors of LRE position papers were to develop quality indicators for LRE as both a process and product. That is, criteria developed were to provide indicators of the extent to which LEA procedures implemented and actual placements made meet both the letter and intent or spirit of the law.

Fourth, authors were asked to provide a rationale or justification for their criteria. It was expected that P.L. 94-142 and its regulations would provide a base for the development of criteria. For those criteria used as indicators of maximal implementation, authors were expected to draw from theory, research findings, the Congressional Record, personal experience, or personal knowledge of current practices. Where criteria did exceed the requirements of the law and regulations, authors were to indicate that the criteria represented desirable but not mandatory standards.

Fifth, the guideline acknowledged the interrelationship of the LRE provisions of P.L. 94-142 with other stipulated provisions — the individualized education program provision, due process procedures, and protection in evaluation or non-discriminatory assessment procedures. Authors were requested to restrict themselves as closely as possible to the LRE provision.

Finally, the guidelines requested that authors of LRE position papers consider different kinds of contextual influences on LEA implementation of the provision. Variables for consideration included, for example, the urban, rural, or suburban nature of the LEA and the length of time the LEA had been implementing SEA policies similar to P.L. 94-142. Authors were to determine whether a general set of criteria for determining progress in implementation of the LRE provision could be used in varied contexts, or alternately, whether multiple sets or criteria were needed for LEAs in different contexts.

In the initial formulation of the study, some thought was given to later development of self-study guides which could be provided as a form of technical assistance to SEAs and/or those LEAs who wanted to evaluate progress in implementation. Over time, the position papers were conceptualized as an exploratory investigation concerning the feasibility of producing self-study guides on evaluation of implementation of the LRE provision. The papers were

not to be the prototype self-study guides. From their efforts to develop criteria, however, determination of the feasibility of the task might be made.

THE LRE CRITERIA STUDY PANEL

The second part of the study involved bringing together a group largely of educational practitioners to discuss the position papers and provide recommendations to BEH. More specifically, the purpose of the panel was stated as follows: To determine the feasibility of developing self-study guides which could be used by state and/or local education agencies to evaluate implementation of the least restrictive environment provision of P.L. 94-142. Feasibility was defined to include topics such as field-testing and dissemination, as well as content and format of possible guides.

The panel meeting was structured into three distinct parts. First, authors presented summaries of their papers and responded to questions. Second, a large group discussion was planned concerning issues related to the study. Finally, three small groups were formed to develop recommendations for BEH. For the second and third activities, study questions were distributed to panelists prior to the meeting. These questions were intended to stimulate discussion and the formulation of additional questions by panelists.

Questions for the large group session concentrated on the conceptualization of the study as presented in the guidelines for authors and also as presented by the actual position papers. For example, a series of questions addressed the concept of progress towards implementation, and questions were posed regarding whether all of the alternative criteria generated by the authors were indicative of implementation meeting the spirit of the law. One major question asked of the group was whether, in fact, the BEH could support any further activities based on this study without giving the impression that developed standards were Federal standards. It was stressed that BEH not only had no intention of imposing such standards, but also did not want to give the appearance of sanctioning specific standards. By legislative intent, SEAs have been given flexibility in implementation.

The group then was divided into three smaller working groups which developed specific recommendations to BEH on the possible development, field-testing, and dissemination of self-study guides. Specific questions posed for these groups involved the developers of the guides, comprehensiveness of developed guides, as well as field-testing and dissemination efforts, the format of self-study guides and field-testing activities, and the utility of field-testing developed self-study guides. Questions were asked additionally which requested strategies for increasing utility of the guides to LEAs.

The number of panelists was intentionally designed to be small. It was felt that a small group would encourage an informal atmosphere and lively exchange of ideas. In selecting educational practitioners for the panel, emphasis was placed on representation from state and local education agencies.

The next part of this monograph presents the four position papers. As is soon evident upon reading the papers, the authors varied in their implementing definitions of the LRE concept. The extent to which the authors were able to specifically follow the guidelines provided to them varied according to the LRE definition used.

PART B

Approaches to Evaluate Implementation of the LRE Provision of P.L. 94-142

SECTION I

Least Restrictive Environment

Sheila Lowenbraun
James Q. Affleck

LOWENBRAUN, SHEILA. Dr. Lowenbraun has served as an Associate Professor of Education at the University of Washington since 1970. Prior to coming to the University she was an Assistant Professor of Special Education at Colorado State College, Greeley, Colorado. Dr. Lowenbraun received her Ph.D. in Special Education from Columbia University in 1969. She has worked in a residential school as a teacher of hearing impaired and multiply handicapped hearing impaired children for three years. Last year she served a three-month post-doctoral internship at the Bureau of Education for the Handicapped, working in the Division of Innovation and Development on developing plans for the evaluation of the impact of P.L. 94-142. She has authored numerous publications relating to P.L. 94-142. Her current affiliations include the Council for Exceptional Children, Convention of American Institutions of the Deaf and Alexander Graham Bell Association for the Deaf.

AFFLECK, JAMES Q. Dr. Affleck is a Professor of Education and has served as chairman of the Area of Special Education at the University of Washington since 1968. Prior to obtaining his doctorate in Special Education at Teachers College, Columbia University in 1968, Dr. Affleck was a teacher of mentally retarded secondary age students for nine years. He was a former educational consultant at United Cerebral Palsy Preschool in New Jersey and a research Assistant at Sonoma State Hospital, an institution for the retarded in California. Dr. Affleck has served as a member of the state Special Education Advisory Board, American Association of Mental Deficiency, and the Washington Association for Retarded Citizens. He is currently state chairman of the Council for Exceptional Children Political Action Network, and has authored a variety of journal articles and publications in special education.

CONTRIBUTORS TO THIS PAPER

We are heavily indebted to the following people, who have made substantial contributions to the paper by doing needed research, sharing their ideas and perspectives with us, and helping to write and synthesize the diverse topics addressed:

- Mr. John Emerson, a doctoral candidate at the University of Washington, researched and wrote the section on perceptions of and concerns about LRE, as expressed by organizations and the press.
- Ms. Jo Fleming, a doctoral student at the University of Washington, researched and synthesized the legal and legislative mandates for LRE.
- Ms. Evelyn Chapman, a master's degree candidate in special education at the University of Washington and the parent of a handicapped child, shared with us her parent's perspective on the LRE.
- Dr. Richard Neel, an associate professor of education at the University of Washington, prepared the section on the severely behaviorally disordered child.
- Mr. Thomas Lehning, Assistant Superintendent, Issaquah School District, and Dr. William Tilly, Director of Special Education, Seattle Public Schools, addressed many of the practical issues involved in implementing the LRE concept in a public school system.
- Our special thanks to Ms. Connie Pious, Coordinator of Publications at the University of Washington's Experimental Education Unit (EEU), for her editing assistance; to Mr. Michael Ward, EEU editor, for his research assistance; and to Cheryl Mathisen, Lois Musgrave, and Shantelle Berryman, also of the EEU staff, for their clerical assistance.

Sheila Lowenbraun
James O. Affleck

1. LEAST RESTRICTIVE ENVIRONMENT: THE CONCEPTS

Citation of the Laws

P.L. 94-142

The goal of P.L. 94-142 is to guarantee equal educational opportunity for all handicapped children. Each state is responsible for developing a comprehensive plan that provides a free and appropriate public education to all of its handicapped children. These plans must include provisions for placement decisions based upon the doctrine of the *least restrictive environment*. P.L. 94-142 requires that the state plans include:

... procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. [Sec. 612 (5) (B)]

Therefore, all handicapped children are to be educated in as close proximity as possible to nonhandicapped children. This policy is based on the idealistic assumptions that various placement options will actually exist for each handicapped child and that the nature or severity of the handicap should be the sole determinant of the extent to which the child can be educated with his or her nonhandicapped peers.

To provide educational placement in the environment that is least restrictive certainly does not mandate that every handicapped child be mainstreamed into the regular classroom, but does mandate the establishment of a continuum of educational environments within each service district in order to provide the appropriate placement for all handicapped children.

Education with nonhandicapped children "to the maximum extent appropriate" means that each handicapped child's placement will be based entirely on his own unique needs. The questions then become: which educational program is most appropriate for each individual child's needs and how is this determined? "The least restrictive alternative is the one that realizes the most appropriate match between the characteristics of the pupil and the nature of the educational environment." (Chiba & Semmel, 1977, p.27).

A popular conceptual schema for implementation of the least restrictive environment is the "Cascade System."

This system presents nine educational program alternatives beginning with a regular classroom in a regular school, which is the desired setting for the majority of children. Progression through the remaining settings, in which gradually smaller numbers of children are placed, is determined by the increasing severity of children's handicaps and the consequent need for greater amounts of instructional and support resources. The most extreme setting in the cascade, where the fewest number of children will be served, is the hospital. [Abeson, 1976, p. 516]

One of the basic assumptions behind the education of the handicapped is that they should progress toward normalcy. Therefore, a handicapped person should be able to progress through the cascade toward less and less restrictive educational environments. If a handicapped child is to continue receiving his or her educational programming in any one setting, or if movement towards more restriction is indicated, these decisions must be based on firm evaluative data.

The crux of the solution is that the planning of delivery systems must create one integrated system of alternatives open to all children, not one for the so-called normals and another for the handicapped. There must be one system which is and remains basic for all children and serves as the junction for bringing to handicapped children the services they need. [Abeson, 1976, p.520]

Section 504 of the Vocational Rehabilitation Act of 1973.

Section 504 of the Rehabilitation Act of 1973 provides that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

"The regulation, which applies to all recipients of federal assistance from HEW, is intended to ensure that their federally assisted programs and activities are operated without discrimination on the basis of handicap." (U. S. Department of HEW, 1977b, p. 22676).

Subpart D concerns preschool, elementary, and secondary education and is very closely coordinated with the provision of P.L. 94-142. A free appropriate education is to be provided to all handicapped children in the most normal setting appropriate. Proper evaluation procedures are to be used to ensure proper placement and due process procedures are specified to handle disputes over placement.

Amplification of the LRE Concept in Rules and Regulations

P.L. 94-142.

The rules and regulations for implementing Part B of the Education for All

Handicapped Act contain specific references to placement in the least restrictive environment. Part E, Procedural Safeguards (121a.550-121a.556), contains the major rules and regulations concerning the least restrictive environment. The following is a summary of that section.

Every state must ensure that each public agency makes provisions for educating handicapped children with nonhandicapped children except when inappropriate because of the nature or severity of the handicap. The proviso applies equally to children attending public or private institutions. These agencies must provide a continuum of special education placement alternatives including "instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions." (U. S. Department of HEW, 1977a., p. 42497) Supplementary services, such as resource rooms and itinerant instruction, must also be available.

The handicapped child's actual placement will be determined at least annually and will be based upon his or her individualized education program. The child should attend the school which is as close as possible to his or her home and it should be the school the child would attend if he or she were not handicapped.

The child should not only be educated with, but should also participate in nonacademic and extracurricular services and activities with, nonhandicapped peers. These include meals, recess periods, and such things as athletics, transportation, and health services.

The States shall insure that all administrators and teachers in the state are fully informed of their responsibilities for educating children in the least restrictive setting and shall provide technical assistance and training for helping them to fulfill these responsibilities. The state educational agency shall monitor each public agency to see that all placements are made in compliance with this policy and will assist in making any corrections in placement if necessary.

Other references to the provision of the least restrictive environment involve the content of State Annual Program Plans and Local Educational Agency Applications. Each State must explain in its annual plan how the state will provide education in the least restrictive environment, the number of handicapped children who are participating in regular education programs, and the number of handicapped children who are in separate classes or separate school facilities. (121a.132)

The local educational agencies must also include in their applications assurances for compliance with the least restrictive environment provision, and must specify the types of alternative placements and the number of handicapped children in each type of placement. (121a.227)

Section 504 of the Vocational Rehabilitation Act of 1973.

Section 504 is, in most important aspects, very similar to P.L. 94-142 with regard to the least restrictive environment provisions. 84.34 of Subpart D specifies that each handicapped person shall be educated with nonhandicapped persons to the maximum extent possible to meet his or her educational needs. The proximity to the person's home of an alternative placement, if such a placement is deemed necessary because of the nature or severity of a person's handicap, must be taken into account. Nonacademic and extracurricular services and activities must be provided with nonhandicapped persons.

Under 84.34 there is also a provision which states that if a handicapped child's behavior is so disruptive in a regular classroom as to seriously impair the learning of the other children, such placement may be determined to be inappropriate. If separate facilities are determined appropriate to the educational needs of a handicapped child, the facilities must be comparable in quality to those that serve nonhandicapped children.

Origins and Interpretations Found in Jurisprudence

The least restrictive alternative principle arose out of the due process clause of the 14th Amendment to the U.S. Constitution.

Although many court cases have been based upon the principle that all children have a right to a free appropriate public education, the courts have also addressed the issue of appropriateness of educational programs in a manner that relates directly to the least restrictive alternative concept.

Prior to the 1960's, handicapped children were often excluded from the public schools or placed in substandard educational settings without any hearing regarding placement. Consequently, the doctrines of due process and the least restrictive alternative emerged as the legal principles upon which much of the litigation in special education has been based. This litigation in turn has resulted in the incorporation of due process and least restrictive alternative provisions in both state and federal legislation culminating in the enactment of P.L. 94-142 [Chiba & Semmel, 1977, p. 19]

Two court cases that specifically related to the requirements of the least restrictive environment were the *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania (PARC, 1971)* and *Mills v. Board of Education of the District of Columbia (Mills, 1972)*. In the former case, the court rules that:

It is the Commonwealth's obligation to place each mentally retarded child in a free, public program of education and training appropriate to the child's

capacity, within the context of a presumption that, among the alternative programs of education and training required by statute to be available, placement in a regular public school class is preferable . . . to placement in any other type of program of education. [334 FSupp. at 1260]

The *Mills* case ordered the implementation of due process and least restrictive alternatives not only for mentally retarded children, but also for *all* handicapped children.

In a class action suit, *Diana v. Board of Education*, nine Mexican-American children alleged that they had been placed inappropriately in a class for the mentally retarded on the basis of inaccurate test scores. This suit led, among other due process safeguards, to a provision in the California code that "children of any ethnic, socioeconomic, and cultural group not be placed in classes or special programs for the educable mentally retarded if they can be served in regular classes" (Chiba & Semmel, 1977, p. 20).

In the *Wyatt v. Stickney* decision, the judge ruled, concerning Partlow State School, that "no person shall be admitted to the institution unless a prior determination shall have been made that residence in the institution is the least restrictive habilitation setting feasible for that person" (Soskin, 1977, p. 29).

In the Willowbrook case (*New York State Association for Retarded Children v. Carey*), the court ordered that the population of the Willowbrook State School of 5700 residents be reduced to 250 or fewer within six years. In a similar case, *Horacek v. Exon*, the population of Beatrice State School was to be decreased from 1000 to 250 within three years.

There have also been recent attempts within the state courts to mandate placement of mentally retarded persons in less restrictive environments within the community. In the case of *Joyce Z.*, the judge ruled that a profoundly retarded girl be placed with foster parents in the community rather than in an institution and that the state pay for this special foster home. In the case of *Stephanie L.*, the court ruled that this 17-year-old mildly retarded girl no longer required institutionalization, but that she did need a "closely supervised, structured residential program in her own community which could provide essential behavior modification programs to help her adjust to living in the community" (Soskin, 1977, p. 32). The judge ruled that this placement be organized and funded.

Many federal and state court cases have created or upheld the principle of the least restrictive alternative for placement of handicapped individuals. The court

cases, together with federal and state laws, have culminated in the enactment of P.L. 94-142. Undoubtedly, this principle will need to be defended many more times in our nation's courts before total implementation is realized. However, the foundation for insuring this basic right of handicapped children to be educated in the least restrictive environment has been laid and will continue to be built upon.

From the foregoing analysis of the laws, rules and regulations, and jurisprudence the following general guidelines may be deduced, and these will be used in discussion of the LRE concept throughout this paper.

1. All handicapped children have the right to an education in the least restrictive environment possible for them.
2. Placement in a less restrictive environment cannot be denied simply because the option does not exist in a specific service district. If an option does not exist, but is deemed appropriate for a given child, there exists legal precedent to mandate the establishment and funding of the appropriate placement.
3. A child's placement is determined after, and because of, the Individualized Educational Plan Conference. No child may be placed in an educational environment simply on the basis of a categorical label or presumed level of functioning.
4. The least restrictive environment concept is not synonymous with the concept of mainstreaming. Least Restrictive Environment mandates a continuum of services; mainstreaming is one point along that continuum.

PERCEPTIONS OF AND CONCERNS ABOUT "LEAST RESTRICTIVE ENVIRONMENT"

The term "least restrictive environment," as defined and mandated by the legislation, has received considerable attention by professional teacher organizations, special interest groups, and the popular press. The term "mainstreaming" is often erroneously interchanged with "least restrictive environment" or "least restrictive alternative" and has caused concern, and often alarm, to many in the field of education. It is therefore useful to explore the perceptions and misperceptions of this topic as published by the Council for Exceptional Children (CEC), the National Education Association (NEA), the American Federation of Teachers (AFT), the *New York Times*, *Time* magazine, and other national news sources. It is also necessary to explore the way LRE is perceived by parents of handicapped children whose placement will be affected by this policy.

Council for Exceptional Children

In speaking to the issue of least restrictive educational environments, the CEC cautions that the term is not a provision for mainstreaming (Ballard and Zettel, 1977). They also emphasize that it does not mandate that all handicapped children be educated in the regular classroom, and it does not abolish any particular educational environment such as those found in residential settings. They stress that the importance of this provision of P.L. 94-142 is that it does mandate that education with nonhandicapped children will be the governing objective "to the maximum extent appropriate"; the IEP will be the management tool toward achievement of the least restrictive environment, and therefore shall be applied within the framework of meeting the unique needs of each child; and the IEP document must clearly "show cause" if and when one moves from a less restrictive to a more restrictive environment.

CEC goes on to explain that Section 504 is nearly identical to the least restrictive environment provision in P.L. 94-142 with one distinction. The 504 regulation seems to consider the "nearest placement to home" as an additional determinant of instructional placement in the least restrictive environment (Ballard and Zettel, 1977). Parenthetically, in many urban areas this provision of 504 is directly contradictory to the desegregation efforts currently underway. In many urban areas, if a handicapped child attended a school close to home he might be isolated from substantial numbers of his chronological age mates who are being bused elsewhere.

Abeson and Ballard (1977) point out that, although the law invokes the right of handicapped children to receive instruction in the "least restrictive environment," the federal government is concerned that each child's individual educational needs be fully met. They go on to say that all handicapped children shall be educated as closely as possible to nonhandicapped children, depending on their individual needs and disabilities. CEC states that P.L. 94-142 acknowledges that special classes, separate schooling, or other removal from the regular educational environment will be required to meet the appropriate instructional needs of many children when "the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." Abeson and Ballard (1977) conclude that the Congress clearly desires that the principle of integration, not segregation, be the governing objective for all children.

National Education Association (NEA)

The NEA discusses the LRE provision predominantly in terms of "mainstreaming." The NEA has taken an "advocacy view" of mainstreaming but has spelled out specific circumstances under which it should occur

("Mainstreaming handicapped students," 1975). They support mainstreaming handicapped students only when several conditions are met. Among these are: (a) a favorable learning experience for both the handicapped and regular students; (b) appropriate instructional materials, supportive services, and pupil personnel services for the teacher and the handicapped student; (c) modifications in class size, scheduling, and curriculum design to accommodate the shifting demands that mainstreaming creates, and (d) adequate additional funding and resources for mainstreaming used exclusively for that purpose ("Mainstreaming," 1976).

NEA President John Royer (1976) cautions that mainstreaming can swell class rolls and advocates reductions in teacher/pupil ratios. Royer also recommends the thorough preparation of both regular and special teachers for their new roles before mainstreaming receives full NEA support. If a teacher feels that the placement of a handicapped student in his/her classroom is unjust or inequitable, the NEA suggests the teacher call a parent/school administrator conference and recommend a change in the IEP, or file a complaint with the state department of education and the state advisory panel. If these two steps fail, the teacher should file a grievance under the collective bargaining contract (NEA Teacher Information Sheet, 1977).

Speaking to the issue of "least restrictive environment," the NEA does point out that the phrase does not automatically mean that all handicapped students will be mainstreamed (Royer, 1977; and "Schooling the handicapped," 1977). It is stated that for some handicapped children, depending on the nature and severity of their disability, the least restrictive environment may be a separate, protective one. This point is again stressed by U.S. Senator Edward Brooke (1977) in an NEA publication. He states that P.L. 94-142 mandates that handicapped children be educated in the regular classroom with their nonhandicapped peers, unless their particular educational needs cannot be met in that way.

American Federation of Teachers

The AFT has spent considerable time and effort addressing the impact of P.L. 94-142 and its provision for "least restrictive environment." Albert Shanker (1977b), president of AFT, stated in a letter to Federation leaders that the AFT national policy supports the least restrictive environment placement concept as stated in the law, when it is implemented under proper conditions. He warns, however, that safeguards against abuses of mainstreaming in the regulations are very weak. Shanker (1977b) urges AFT leaders to document abuses such as

... wholesale return of special education students to regular classrooms, firing of special education personnel, the lack of inservice training for regular teachers, and high class sizes which lessen the quality of education received by both regular and special children (p. 4)

In a letter to the Bureau of Education for the Handicapped, Shanker (1977c) again addresses the concept of the least restrictive environment. He urges that Sec. 121a.442(2) be strengthened to "consider any potential harmful effect on the child or on the quality of services the child needs" and to "prohibit placement of children in settings unprepared to meet their needs." He concludes, "We are disturbed by reports from all over the country that least restrictive environment placements are already being made with little regard to the welfare of special and regular children" (p. 3).

On several occasions, the AFT has spoken to the issue that mainstreaming is being used by the school districts as a means of saving money (Shanker, 1977a, 1977c; Maeroff, 1977). Their main concern is that administrators will opt for placement of handicapped children in regular classrooms rather than "costly" special education programs in order to save money. AFT also states that any decision not to place the handicapped in a normal classroom can be overruled by a parent (Shanker, 1977a).

The AFT fears misinterpretation and abuse of the least restrictive environment concept with the dismantling of residential, regional, and self-contained classroom programs for the handicapped (Humphrey, 1977). They seek assurance that special education funds follow the handicapped child who is mainstreamed with adequate supportive services.

The mainstreaming issue is also evident in current contract negotiations. The AFT urges that collective-bargaining agreements include statements limiting the number of handicapped students allowed in regular classrooms (Rauth). The union supports mainstreaming but "only when it is in the best interest of the child, and only when proper steps have been taken to assure that teachers, students, and the regular classroom all are prepared for meaningful change" (p. 9).

Time Magazine

During the last two years, *Time* has reported on P.L. 94-142 and its effect on special and regular education in three articles. The first ("Into the Mainstream," 1976) reported that P.L. 94-142 favored integration of handicapped students into regular classes as soon as is feasible for all but the most severely handicapped. They go on to report that this integration will accomplish three objectives: (1) the handicapped will achieve more both academically and socially, (2) the regular classroom exposure will help the handicapped cope with the "real world" when they are adults, and (3) exposure to handicapped persons helps normal children understand individual differences in people. They continue by stating that it is often difficult for the handicapped to fit in with nonhandicapped peers and cite the case of a hyperactive boy who hanged himself after spending two months in a regular classroom where he was

continuously taunted. There are reports of schools putting handicapped pupils into regular classrooms while cutting back previously existing special education services. The article concludes that teachers may want to limit the number of handicapped children who are placed in their classes as the "handicapped will add a burden and take away time from normal children."

In another article ("D-Day for the Disabled," 1977), it is reported that only 40 percent of the handicapped now receive an adequate special education and, according to the law, the remaining 60 percent must be placed in a "least restrictive environment" by September 1978. Senator Edward Brooke (R Mass.) concludes that schools may mainstream ill-prepared children into regular classrooms because such placement will be less expensive than smaller special classes. The article states that traditionally trained teachers lack any background in special education and will have a difficult time in dealing with severely handicapped children placed in their classes. The effect of mainstreaming on the handicapped when they are taken from the familiar, protective environment of the special classroom is also discussed.

In a more recent *Time* article ("New Day for the Handicapped," 1977), it is stated that handicapped children must be given a free public education and, as often as possible, by mainstreaming them with normal children in regular classrooms. Three accounts of very successful integration experiences by elementary and secondary students are discussed. However, it is pointed out that parents of nonhandicapped children feel the overall quality of education will suffer from this integration. Problems with the high cost of retraining teachers to deal with the handicapped and the lack of adequate funding for P.L. 94-142 are pointed out. The article concludes with a quote from a regular classroom teacher: "But the fact is, we are doing it. Many of these kids are now in school with their brothers and sisters."

The New York Times

The *New York Times* has devoted considerable space to the question of moving the handicapped to least restrictive environments in both their daily newspaper and the Sunday magazine. The New York Education Commissioner stated that "mainstreaming" is beneficial to both the handicapped and nonhandicapped because it tends to discourage the labeling and stereotyping that limits the way people see these children and, ultimately, the way the handicapped see themselves (Carroll, 1975). Regular classroom teachers were reported to be fearful of having to teach the handicapped since they felt it was easier to deal with homogeneous classes. The article concludes that ending the isolation of the handicapped will allow them to become an accepted part of the life of the school and the community.

Gene Maeroff (1975) reports that the language of P.L. 94-142 clearly favors

integrating the handicapped into regular classes. He quotes directly from the law that the handicapped should be "educated with children who are not handicapped unless the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." Two other *New York Times* articles report that, since the passage of P.L. 94-142, handicapped children must be educated in classrooms with those who are not disabled, whenever possible ("Aid Bill Voted for Handicapped," 1975; Maeroff, 1977).

Reporter Fred Hechinger (1976) writes in the *New York Times* that the mainstreaming approach to education of the handicapped amounts to an educational revolution. He reports that mainstreaming came to the foreground with the passage of the Education for All Handicapped Children Act and cites critics who warn of adding substantial numbers of youngsters with a diversity of problems to the responsibilities of the "ordinary, already harassed classroom teacher." The difficulties of integrating the handicapped are seen as multiplied by the inadequate preparation of the teachers who are asked to accept these students into their classes. It is also reported that children with physical handicaps are often endowed with average or above average intellectual and motivational qualities and may become an asset to the regular classroom, whereas the mentally retarded children's sense of defeat and frustration might be increased by competition with their nonhandicapped peers. The emotionally disturbed child, according to Hechinger, is seen as disrupting the educational procedures and, if integrated, may arouse anger and antagonism in classmates.

Hechinger does point out that mainstreaming does not mean the end of special services and quotes the Council for Exceptional Children as promoting resource rooms. CEC also states that mainstreaming does not mean the wholesale return of all exceptional children to regular classes and is not less costly than self-contained classrooms.

According to Hechinger, teachers unions are reported to be seeking contractual provisions which would state that, for every handicapped student mainstreamed, the class size would be reduced by three regular pupils. In conclusion, the author states that many students harbor strong prejudices against the handicapped and may not accept them readily into their classrooms. He warns of the "bandwagon of instant change and the confusion between civil rights and the right kind of education for every child."

Teacher concern over the issue of mainstreaming was reported in detail by the *New York Times* in an article "Teachers Weigh Limit on the Number of Handicapped Pupils per Class" (Maeroff, 1976). Complaints included lack of adequate preparation or commensurate relief from usual teaching loads when handicapped children are placed in their classes. Tens of thousands of

handicapped children are reportedly being forced into schools which are not prepared to serve them. The author defines mainstreaming as putting a handicapped student into as many parts of the regular program as the youngster's physical, emotional, or mental condition allows.

Maeroff (1976) states that teachers see the lack of understanding of the various disabilities they may find in their classrooms as a central concern. Several testimonials are given of negative experiences with mainstreamed handicapped students. Teachers reported that they were less able to find time to work with handicapped children and their teaching days were now long and tiring. An official from New York's United Federation of Teachers states that no teacher who is unwilling should have to accept a mainstreamed handicapped child.

The *New York Times* reported that recent court decisions and P.L. 94-142 have forced hundreds of thousands of handicapped students to be mainstreamed into regular elementary and secondary schools ("On Teaching the Handicapped," 1976). Teachers' concern with having the handicapped in their classes is addressed in another article (Milofsky, 1977). Teachers point out that teaching the handicapped requires special skills and attention and they have an "innate fear" of mainstreaming because of lack of understanding. Advocates of integration contend that most handicapped children can adapt to a regular classroom if proper efforts are made at adjustment.

Reporter Nancy Hicks (1977) writes on the financial impact of integrating the handicapped into regular school programs. She reports that if one-fifth of the mentally retarded, learning disabled, and emotionally disturbed children were shifted from special education programs into full-time regular classrooms, the cost of their education would be reduced annually by \$235 million. If another fraction of the quarter of a million physically handicapped children in special programs were moved into regular classes, she reports, another \$65 million would be saved annually.

The *New York Times Magazine* recently printed a lengthy article warning against mainstreaming the deaf student (Greenberg and Doolittle, 1977). It reports that P.L. 94-142 requires public schools to educate all deaf children and they are not prepared to serve them adequately in the comprehensive manner found in the segregated schools. Mainstreaming for the deaf is seen as forcing untrained teachers in already overcrowded classrooms to deal with a new group of students who are vulnerable socially, psychologically, and educationally. Several spokesmen for the deaf call mainstreaming a devastating experience for huge numbers of children. The article states that only 10 percent of deaf children can be successfully mainstreamed because the others would be adversely affected by the untrained teachers, rejection by their nonhandicapped peers, and the absence of special materials for the deaf in regular classrooms. Dr. Schrieber, head of the National Association of the Deaf, states, "I don't think it will work." Several

deaf students and teachers of the deaf were interviewed and shared the belief that the deaf would not be able to achieve their greatest potential if mainstreamed into regular public school programs.

Other Publications

U.S. News and World Report reported that Section 504 of the Rehabilitation Act of 1973 mandates that public schools must now intermingle handicapped students with "normal" students to the fullest extent possible and not segregate them in classrooms and schools of their own ("Rights for the Handicapped," 1977). A spokesman for the National Association for Secondary School Principals states that, since the emotionally disturbed are included in P.L. 94-142, teachers will find some very difficult situations in trying to incorporate them into regular classes. He feels that the class as a whole will not progress as fast because of the sudden presence of handicapped children. Some school administrators are reported to be at the point of rebellion on the issue of compliance with the new federal regulations.

Psychology Today defines "least restrictive alternative" as placing children where they can be best educated at the least distance from mainstream society (Molloy, "New Help for the Handicapped," 1975). Any segregated or restrictive school program should aim at eventually integrating the handicapped child back into a public school setting, according to the author. He states that the integration of handicapped children into regular classes is a means of allowing the handicapped to contribute to society as parents, workers, and taxpayers.

Parental Perspective

While P.L. 94-142 offers handicapped students the opportunity to become a part of the mainstream of the educational system, and guarantees the right to the least restrictive educational setting, the parents of handicapped students may not be willing to approve placements in a "least restrictive" program. It is necessary for agencies at both the national and local level to understand some of the reasons parents may resist such placement.

Mentally or physically handicapped students, or those with significant sensory deficits, have historically been treated by the general public with varying degrees of rejection. Children with observable physical differences have been especially discriminated against. Parents have been conditioned by a long series of situations from the time the handicapped child is born to distrust the general public, providers of generic services such as medical and dental care, and social service agencies. People stop mothers on the street to ask what is wrong with the handicapped child; generic service providers either flatly refuse to serve the

handicapped child or charge premium service rates and act as though they are doing the parent a favor by providing the service. Social service agencies sometimes start from the premise that the parents are "guilty" of some misdeed which caused the handicapping condition(s), rather than assisting them to find appropriate services.

By the time handicapped children reach school age, their parents are therefore likely to have a protective attitude towards them and to avoid rejection situations by seeking "comfortable" environments where there are other parents who have gone through the same kinds of problems with children who need similar services. The abrupt change from familiar services and settings will start alarm bells ringing in the parents' minds about how their children are going to function in a situation where there may be few children with handicaps and many children who have never been around handicapped children. There are good reasons for these parents to be concerned.

The national studies on violence in the schools have provided alarming data about physical assaults on teachers and other students. Handicapped students are less able to protect themselves against such violence, and mentally or physically handicapped students may not have the skills to avoid potentially dangerous situations.

Parents are concerned about exploitation of all kinds. Statistics are just beginning to be gathered on sexual abuse of developmentally disabled students. The Rape Reduction Program of the City of Seattle reports that in 1977, 16 non-solicited complaints were handled. Now that a developmental disabilities specialist has been hired, about five cases a month are referred, and it is expected that more will be reported as the program starts training teachers in how to report such cases.

According to Janet Taggart (director of the program), who has investigated many of these cases, the building principals do not have training in handling sexual abuse cases, and want the handicapped student, rather than the student who performed the act of assault, to be transferred from the building. The classroom teachers, also not trained and uneasy about the whole area of sexual abuse, are not able to "receive" the message of possible assault from the handicapped student. They therefore miss some of the early signals which could lead to prevention, rather than reaction *after* the actual assault occurs.

Another area of exploitation which concerns parents is the introduction of handicapped students to drugs and alcohol. Unscrupulous drug dealers or fellow students may see the handicapped student as an "easy" mark. The handicapped student probably does not have the skills to say "no" when approached by such persons and will not generally have a supportive social group to back up refusals.

Parents are also concerned about the possibility that their children will be influenced by less lawful elements in the school into performing acts such as stealing or destroying property both on the school grounds and in the community. The King County Dysfunctional Offender Program, Developmental Disabilities Division, state of Washington, estimates that they have had 24 active cases from September, 1977, to the present. Statewide, 48 requests for referrals and information have been received because other counties lack such a service. It is expected that more referrals will be made now that a specialist has been hired.

Least restrictive programs will probably emphasize teaching secondary handicapped students to use public transportation systems, and parents are particularly concerned that their children will become more accessible to all kinds of dangerous and exploitative situations in the community while traveling to and from school.

Aside from these very real concerns about the safety of their handicapped children, thoughtful parents will look very closely at the quality of educational programs in less restrictive school environments.

School programs have not served the handicapped child well, whether their students were mildly handicapped or more severely involved. Parent advocacy groups have lobbied and pressured for better quality programs through organizing efforts at "segregated" facilities where communication and common goals have resulted in program changes. If students are scattered throughout school systems, parents' capability of organizing groups is lessened considerably.

The three major problem areas in programs are these:

1. Handicapped students are taught the same skills over and over again because districts have not identified criteria for advancing pupils to more difficult skill levels. This penalizes both the more severely handicapped student because educational potential is wasted, and the mildly handicapped student because opportunities to return to the mainstream of services are cut off as the student gets further and further behind peers.
2. Handicapped students are denied the opportunity to learn some educational skills solely because particular subject matter is not taught, not because the handicapped students cannot learn. For example, handicapped students may be taught to read by the phonics method but not given practice in comprehension skills, making the reading activity less useful. Or, programs may concentrate on reading, but leave out written expression entirely. Curriculum sequences are not comprehensive.
3. Handicapped students are taught irrelevant skills when they could be learning more important skills; or they are taught subject matter that is out of sequence and that they are therefore unable to perform. An example is the course in how to balance and keep a checkbook that is offered before the pupil has acquired the prerequisite skills in addition and subtraction.

With these types of problems found in more restrictive school programs, parents are concerned about what will happen if the students are transferred to less specialized programs. Students who have already been placed in "mainstream" programs have found themselves treated like the retarded boy in the shop class who always swept the floor and was never taught to use the tools.

Suggested Responses to Perceptions of and Concerns about LRE

The authors of this paper support the concept of Least Restrictive Environment, and strongly advocate such placement for all handicapped children. However, even a superficial perusal of the popular press and of professional organizations' publications gives cause for deep concern. If the LRE mandate is to be successfully carried out within a Local Education Agency, it would seem advisable to deal with the public conceptions of and concerns about this topic in a respectful and realistic manner. The following suggestions are offered.

1. The term "Least Restrictive Environment" should be used at all times, and should be disassociated from the term "mainstreaming." "Mainstreaming," besides being an inaccurate portrayal of the LRE mandate, seems also to be highly negatively loaded to regular educators and administrators and to the public.
2. A public education plan, utilizing the media and the services of organizations such as the PTSA, should realistically portray the goals, expected outcomes, and potential problems of the LRE mandate.
3. The implementation of the LRE mandate should be included in contract negotiations with teachers. Bargaining points might realistically include: reduction in class load, provision of supplemental aides and services, and inservice education. The LRE mandate should not be viewed by either party as an attempt to save money, but rather as an attempt to use a finite set of monetary and personnel resources to most effectively serve both handicapped and normal children within the public school system.

II. PHILOSOPHICAL, SOCIOLOGICAL, AND ECONOMIC CONSIDERATIONS

Assumptions Underlying the LRE Mandate

Including provisions for the least restrictive environment in P.L. 94-142 is consistent with the liberal idealistic philosophy that is characteristic of the entire act. It is predicated on a series of beliefs and assumptions that have been a part of American educational phenomena throughout most of the nation's history.

There has traditionally been movement towards equality of opportunity for all citizens that has called for legislative and judicial actions; these have eliminated the legal obstacles for various groups who were discriminated against. The Fourteenth and Fifteenth Amendments to the U.S. Constitution, the Brown Decision of 1954, the Voter's Rights Law of 1965, and the Affirmative Action Executive Order of September, 1965 (No. 11247) have conclusively and collectively made it illegal to discriminate against members of racial minorities solely on the basis of race. There is similar progress towards eliminating discrimination because of sex and sexual orientation. Additionally, P.L. 94-142, through the LRE provision, and Section 504 of the Vocational Rehabilitation Act of 1973 now provide for eliminating discrimination on the basis of handicapping conditions. All of these clarifications of human rights have been preceded by a degree of social unrest and determined, prodigious effort by proponents and opponents; they have all been followed by attempts at implementation. The public schools of the United States tend to be viewed as the major avenue for carrying out the desired social changes. This point of view is clearly articulated by the following excerpts from the *Congressional Record*:

Congressional Record – House, November 18, 1975, Mr. Dominick V. Daniels, p. H11353

I am also pleased with the provision of the conference report that assure that handicapped children will receive the educational benefits of this program in the company of children who are not handicapped. Of course, practical limitations will have to be set on this participation, but the provision strongly underscores my own personal conviction that handicapped children must be made to feel that they are a useful and appreciated component of American society. Further, I believe the opportunity to share learning experiences with handicapped children will broaden the personal growth of classmates who are not handicapped. Lessons of patience, understanding, and the ability to provide peer encouragement are just as valuable as traditional educational lessons to the future citizens of this nation.

Congressional Record – Senate, June 18, 1975, Mr. Stafford, p. S10961

If we allow and, indeed, encourage handicapped children and nonhandicapped children to be educated together as early as possible, their attitudes toward each other in later life will not be such obstacles to overcome. A child who goes to school every day with another child who is confined to a wheelchair will understand far better in later life the limitations and abilities of such an individual when he or she is asked to work with, or is in a position to hire, such an individual.

Though one can hardly disagree with the presumed outcome, there is a legitimate need to question the efficacy of the public schools in bringing it about – indeed, one must question their viability as an instrument of social change. Further, one must sound a warning about encouraging dangerously high expectations. The failure to fulfill these will inevitably lead to disappointment.

Social Changes and the Public Schools

The studies of sociologists such as Hollingshead (1949) portrayed the public schools as conservative reflections of their communities. The social class of a student, though never acknowledged as a factor, was most highly related to his grades, completion of high school, and even participation in extra-curricular activities. Kimbrough (1964) has noted that the actual decision making regarding the public schools is made by the most conservative business and "old money" interests, who make sure they are amply represented on school boards. Kirp, in *Schools as Sorters . . .* (1973), states that the courts have consistently found ability grouping and tracking to be discriminatory (Hanson vs. Hobson, 1971). Nevertheless, the schools have not abandoned this practice.

Of 180 school administrators from ability grouped districts who responded to the question, "What do you consider to be the disadvantages of homogeneous grouping in your school district?" only nine indicated that grouping "does not necessarily result in better learning." . . . Fewer still noted problems with establishing criteria for grouping, or recognized that grouping "tends to 'lock' slower learners into slow groups." . . . The recognition of possible educational harm (as distinguished from social harm) was even less among districts that used limited grouping, or no grouping at all. . . . [Footnotes 55, 56: Kirp, 1973, p. 717, citing study by Findley & Bryan, 1971; and *Teachers' Opinion Poll: Ability Grouping*, NEA, 1968.]

The stance of elected officials against busing for racial integration, the current public discussion regarding increasingly poorer scores achieved by American students on college entrance examinations, the continued flight of white Americans to the suburbs, and endless problems in desegregating the schools indicate, if not a conservative backlash, a persistent resistance to social change within the schools. It is apparent that the schools are responsive but not responsible. That the schools must be changed before they become an instrument of societal change is generally overlooked. Kenowitz, Zweibel, and Edgar (1977) have noted a discrepancy between the LRE provisions of 94-142 and school officials' planning for future programs and educational settings for severely handicapped students. The school officials preponderantly outline the most restrictive environments, special schools, special wings, etc., for these students. These authors note a "communication loop" between government agencies, professional organizations, and educational theoreticians concerned with the handicapped that has served to mutually reinforce themselves but has not yet had a significant impact on those who are actually making educational decisions for the future.

In addition, the prevailing image of today's secondary schools is one of holding pens whose first duty is to keep young people out of the labor pool by "entertaining" rather than educating them (*Time Magazine*, 1977) further dissipates the schools' credibility as a potent social engineering force.

The decrease in the number of new inventions,* the decrease in basic research activities, the acceleration in activity to provide more resources for gifted students may be the indicators of another resurgence of the post-Sputnik era, when resources are diverted to the intellectually elite and meritocracy takes precedence over the populist conception of equality. The irony of all of this may be that these policy changes, whether good or bad, take place primarily in a "communication loop" and rarely bring substantive change to the classroom. Perhaps the real change agents have been factors that have not been given much attention, such as the abandonment of the *in loco parentis* concept during the sixties, the lack of enforcement of mandatory school attendance statutes, or even other unidentified and unsuspected variables.

The Emersonian philosophy of the Rev. Jesse Jackson is presently widely reported in the press and may be another indicator of retrenchment after the dashing of what have proven to be unwarranted hopes for minority citizens. Black unemployment remains at an all-time high, especially among youth. This was not the promise of the Brown decision and the subsequent legislation and adjudication. The parallels between the historical revolution of racial desegregation and the present expected revolution for the handicapped citizen — because of the enactment of 94-142 and Section 504 of Vocational Rehabilitation Act (1973) — should temper the exuberance of anyone expecting rapid and substantive change. Handicapped persons, their parents, and advocates should take a critical look at these parallels. The cruelty of raising unrealistic hopes and underestimating the work necessary to implement even the most humane laws must be faced directly; otherwise, there is even more to lose through disillusionment and alienation. The dialogue must be extended beyond the communication loop that includes the handicapped and their advocates. Surprisingly to some, there are many Americans who do not empathize with handicapped people. The character Pam's soliloquy from "A Day in the Death of Joe Egg" (Nichols, 1967) portrays an attitude that, though *sotto voce* at present, can be depended upon to emerge among these people as handicapped individuals become their children's classmates or their co-workers.

Oh, charming. . . . I keep looking at that door and thinking she's going to come through it any moment with that poor weirdie. I know it's awful but it's one of my — you know — THINGS. We're none of us perfect . . . I can't stand anything N.P.A. Non-Physically Attractive. Old women in bathing suits — and skin diseases — and cripples. . . . No good, I just can't look at them. . . . One — place — we went, there were these poor freaks with — oh, you know —

* The Patent Office Gazette reports that 70,348 general patents were issued in 1976, 65,290 in 1977. We cite these figures to offer merely one index of changing priorities.

enormous heads and so on — and you just feel: oh, put them out of their misery. Well, they wouldn't have survived in nature, it's only modern medicine so modern medicine should be allowed to do away with them. . . . I love my own immediate family and that's the lot. Can't manage any more. I want to go home and see them again. They may not be the most hard-working, well-behaved geniuses on earth, but no one in their right mind could say they were N.P.A. . . . [pp. 62-63]

To reiterate: the assumptions underlying the LRE mandate seem to be that a) schools can and should function as social change agents, and b) physical proximity is a necessary and perhaps sufficient basis for mutual respect, empathy, and understanding, and that the 'separate is not equal' doctrine applies equally to socio-ethnic minorities and the handicapped. The validity of these assumptions must be reviewed in the light of current knowledge of sociological theory, decision making processes, and the outcome of similar mandates for integration of socio-ethnic minorities.

The Handicapped Child as a Minority Group Member

The discussion above deals with the legal and legislative precedents for placement in the Least Restrictive Environment. It can be seen that the legal precedents are based primarily on the assumption that the minority groups, especially racial minorities, are inherently equal to the majority population in school-related characteristics and that separation for educational purposes is stigmatizing to them and thwarts them in their attempt to fulfill their potential. However, extending this principle to the handicapped poses some real problems. Handicapped children are a minority, or perhaps several minority groups. They deviate from the norms of society in many different ways. (See Goffman, 1963, for further explication.) •

For purposes of discussion in this section, let us differentiate between the concepts of "disability" and "handicap." A *disability* is an apparent physical or behavioral deviation from normal. It is, at least theoretically, observable and measurable. One can, for example, measure the degree of hearing loss through standard audiometric tests; the degree of visual impairment through optometric examinations; and the degree of mental retardation through standardized intelligence tests and adaptive behavior scales. Somewhat less clearly, it is possible to measure the degree and type of emotional disturbance, using either projective techniques or behavioral objectives. The categories of disabling conditions are roughly contained in the federal or various state lists of eligibility characteristics for children in Special Education.

A *handicap* is not as easy to quantify since it results from the interaction of a disability or overt difference from the norm with society's expectations for

adaptive behaviors in such areas as communication, locomotion, socialization, occupation, and self-direction (Vineland Social Maturity Scale, Doll, 1965). Society unconsciously and collectively places value on certain behaviors and degrades others. These values, which are culturally determined, are generally not articulated except when they are violated. For example, society values the ability to speak well and clearly in the prevalent dialect (e.g., standard English). However, some accents are culturally determined to be acceptable and some are deemed unacceptable. An English (British) accent is usually considered "high class," a French accent is considered variously to be "cosmopolitan," "cute," or "sexy." However, a Mexican-American accent or a southern black dialect are usually considered "low class" or "uncultured." Thus, some people have spent much time and effort, largely unsuccessfully, trying to have black English taught in schools, and trying to convince people of the respectability of the black dialect. No such justification is necessary for the British dialect! Another value of society, also unarticulated unless violated, is the ability to dress appropriately in accordance with expectations for age, sex, and social situation. Others include the ability to display the proper emotions at the proper time, the ability to deal appropriately with bodily functions (e.g., to be toilet trained, not to masturbate in public, not to drool) and the ability to do adequate or above average work in school or in a vocational situation.

Handicapped children differ from racial, religious, or cultural minorities in two important ways. First, handicapped children are usually not born into handicapped families. With certain exceptions, such as genetic deafness and perhaps "cultural-familial" retardation, handicapped children are born to parents who are phenotypically normal and who did not bargain for or anticipate having a deviant child. Thus the children are stigmatized to their families as well as to society. Second, handicapped children are by reason of their disability truly handicapped. While they can be taught, to some extent, to circumvent their disabilities, or to use prosthetic aids to learning, they cannot be totally "unhandicapped" merely by placement in proximity to normal peers. In fact, except for those with short-term problems, it is unlikely that any educational technique will totally "cure" the disability and thus remove the handicaps associated with it.

Compensatory Education Environment (CEE)

The legal and legislative mandates for special education for handicapped children and the voluminous literature on the optimum nature of that education have a common, unarticulated underlying philosophy. That is, that handicapped children were created inherently unequal to the normative group in some set of important physical or mental characteristics and that as a result of this inequality, they and their families are entitled to unequal treatment under the law.

The philosophical basis for this unequal treatment is perhaps more Marxist than Jeffersonian Democratic. Democracy espouses — at least superficially — equal treatment for all under the law. "All men are created equal." Given this equal treatment, some people will succeed more than others, and the results, theoretically, should be a hierarchy of individuals determined by merit. A basic tenet of Marxism is that men are created unequal and that treatment should be individualized so that the end result is as near equality as it is possible to achieve. "From each according to his ability — to each according to his need."

Mandates for special education universally dictate that the education provided be more extensive (free schooling and related services provided for more years than that offered to normal children) and more intensive (generally in the form of lower teacher-pupil ratios and the provision of ancillary services). The net result of these mandates is an attempt to compensate the child, and perhaps his family and society at large, for the presence of a handicapping condition. The education and related services provided to the child thus are more extensive and more expensive to society because of society's attempt to compensate for the handicapping condition. Furthermore, a handicapped child does indeed deviate negatively from the norm and is in need of the special services. In practice, it usually works out that the more severely handicapped a child is considered by society the more extensive and the more expensive are the services provided to him. Thus, in the state of Washington, for example, along the continuum of mental retardation, mildly retarded children are served at a self-contained teacher/pupil ratio of 13 to 1, moderately retarded children at 10 to 1, severely and profoundly retarded children at 8 to 1, and multiple handicapped children at 6 to 1. It is important to note that these ratios and probably those implicit or explicit in the other states were not at all empirically determined; they are largely the result of agreement among concerned groups on the relative severity of the various disabilities. In the state of Washington, for example, ranking by teacher/pupil ratio gives the following order of supposed degree of handicap.

Most Handicapped	Multiple Handicapped	6 to 1
	Blind	6 to 1
	Hearing Impaired	6 to 1
	Severely and Profoundly Retarded	8 to 1
	Neurological Impairment	8 to 1
	Moderately Retarded	10 to 1
	Behavior Disability	10 to 1
	Partially Sighted	12 to 1
	Mentally Retarded	13 to 1
	Learning Disabled	15 to 1

[Chapter 392-171 WAC July, 1973, p. 9]

The concept thus can be established that special educational service provisions entails at least in part the provision of a Compensatory Educational

Environment (CEE). The degree of compensation is roughly equivalent to the perceived magnitude of the handicaps imposed. The implicit purpose of the CEE is to bring the handicapped child to parity with his normal peers through extraordinary educational service provision.

III. IMPLEMENTING THE LRE PROVISION IN SELF-CONTAINED FACILITIES

Definitions

In this section, we discuss the problems and issues surrounding placement of handicapped children in self-contained facilities. For purposes of this discussion we will define the terms institution, residential school, and special day school, and further sub-categorize within these basic groups, since the LRE justifications for each group are dissimilar.

An *institution* is defined as a residential facility where handicapped children are placed primarily to receive shelter and custodial care. While education for eligible children in institutions is mandated, the educational program cannot be viewed as the primary purpose of the facility. In an institution, clients remain in the facility even though the school session is not in progress (e.g., over summer vacation and holidays). An institution may be either publicly or privately run; and if privately run it may be either sectarian or non-sectarian, non-profit, or proprietary. Institutions may accept clients younger than or older than the mandated educational years.

A *residential school* is defined as a place where handicapped students come to receive an education. At least some of the students attending the school program board at the school during the term, but all go home when school is recessed for long periods. Some residential schools are "5 day only" facilities, where all students are returned home each weekend. Residential schools may be public, private, sectarian, or non-sectarian. Most residential schools accept as day pupils students who live in the surrounding community.

A *special day school* is an administratively and geographically separate school building or buildings where handicapped children receive an education. Pupils commute to and from school on foot, by bus, or by public transit. A special day school has its own building principal and administrative staff, and is not located on or adjacent to the campus of a school serving normal children. Generally such schools are located in urban or suburban areas with a large population base. They may serve one kind of exceptional child or more than one type.

Placement in Self-Contained Facilities

Traditionally, handicapped children have been placed in self-contained facilities for various reasons. Placement in institutions has generally been limited to those individuals for whom custodial care has been mandated — that is, adjudicated youngsters — and to those for whom medical or custodial care was deemed necessary (e.g., mentally retarded and emotionally disturbed children). Recent trends have been toward deinstitutionalizing the less severely disabled and placing them in community based facilities. Placement in a public or private institution may be forced by a legal decision or may be by parental choice, including parental waiver of guardianship to the state.

Placement in residential schools may occur as a result of many factors. In rural or remote areas there may not be a sufficient number of children with similar needs to provide an appropriate educational program. The one hearing impaired child in a 2,000 square mile area, if not a candidate for complete mainstreaming, cannot receive the education he needs without boarding in a community where there is a program for the hearing impaired. Children with low-incidence handicapping conditions, such as deafness and blindness, have traditionally been served in residential schools. In 1977, for example, 43 states and the District of Columbia are listed as having at least one public residential school for the deaf. Most have a similar program for the blind, some in combination with the school for the deaf (e.g., Alabama Institute for Deaf and Blind in Talladega, Alabama). (*American Annals of the Deaf*, April, 1977:)

It is noteworthy here that some states have made a determined, and successful, effort to provide an alternative to a self-contained residential facility for low-incidence populations. Wyoming, for example, because of its large area and relatively small population, serves its hearing impaired children in a centralized facility located in Casper. A total of 61 pupils are served (1977). They come from all parts of the state. Yet, the Wyoming School For The Deaf is a day school. About ten years ago, the residential component was shut, and students were found foster placements in the local community, returning to their real families whenever school is not in session.

Students may also be placed in residential schools because of the reputation of individual schools or tradition. In Massachusetts, for example, Clark School for the Deaf for over 100 years has served as a private, almost "Ivy League" school for the deaf. One hundred and sixty-two of its two hundred students (*American Annals of the Deaf*, 1977) board at school, even though many of them could easily commute, or attend school in their home towns and cities, or be accommodated in community foster homes.

Parents often prefer to send their children to a residential school rather than to their local program. Thus, even though Seattle, for example, has a well

developed comprehensive program for the deaf, a parent residing in Seattle may elect to send his child to the Washington State School in Vancouver — almost 200 miles away. Most costs for room and board (as well as education) are paid by the state.

Placement in special day schools may occur because of parental preference, school district option, or school district policy. Parents may elect to send their child to a private school in order for the child to receive a more appropriate education, or for reasons of religious or methodological preference. Many private schools have been started because parents were dissatisfied with the educational and related services offered (or not offered) by their local school districts. These private schools served a very real need in providing alternatives to improper education or, in the days before mandation, to no education at all. Now, the need for such schools may be greatly reduced since the parent has the right to help determine the child's educational program and can employ due process to ensure the child receives a free appropriate public education. However, educational institutions, once established, are difficult to modify or eliminate. Some private schools (e.g., the Frostig School in Los Angeles) were developed around the use of a particular methodology or were founded by a particular expert in the area. These schools too have their devotees who would fight against other placement for the children. Many of the schools so started used to be at the forefront of special education, before the public sector became involved in helping handicapped children. Many still are; but others have stopped growing long ago, content to employ, reemploy, and justify the techniques and expertise that got them started, and relatively oblivious to the march of progress in new techniques and materials for the handicapped.

The Self-Contained Facility: Criteria For Its Use As An LRE

The concept of a self-contained facility (institution, day school, or residential school) as the least restrictive environment for a handicapped child is extremely difficult. If least restrictive environment is defined as maximum opportunity for interaction with and/or education with normal peers, then placement in a self-contained facility is, by definition, placement in the most restrictive environment (MRE). There can be no greater restriction placed on a handicapped child in terms of interaction with normal peers than placement in a geographically and administratively separate school program. Equally restrictive is education at home or in a hospital on a one-to-one basis. These placement options are equal to placement in a self-contained facility, as far as opportunity for interaction with normal peers is concerned.

Institutions.

The authors believe that institutions may, under some special conditions, be the LRE as well as the MRE for some children. The LRE=MRE paradigm occurs only when the need for custodial or medical care is so overriding that it would be unsafe for the child and/or for society to remove the child from his protective environment.

Proposed Criterion No. 1.

A totally self-contained institutional educational program may be the LRE for a given child if, and only if, in the opinion of legal and/or medical professionals, the child so placed would be harmed or society would be harmed by his removal from the protective institutional environment on a regular basis.

Criterion 1 does not say or imply that parental preference for institutional placement is a reason for considering that placement as an LRE. Thus, if parents are unable to or unwilling to care for their handicapped child in the home, a variety of community based placement options such as group homes, foster homes, and half-way houses should be available along with educational placement options in the public school system.

Residential or Special Day Schools.

If a child attends a special school and is fit to travel to and from that school when it is not in session, the authors believe that placement in a self-contained facility does not fit the LRE=MRE paradigm. In other words, if the child has to travel to a self-contained school and is fit enough to do so, there are few, if any, intrinsic reasons why the child cannot equally well travel to a location which will permit some degree of interaction with, or at least proximity to, normal children.

Proposed Criterion No. 2.

If a day or residential school does not provide the opportunity for systematic interaction with and proximity to normal peers, it is not the LRE possible for any handicapped child.

While parents of course have the option of removing their children from the public school system and placing them in alternative programs, school districts should not contract with totally self-contained facilities to provide educational services to handicapped children since they violate the LRE provision of 94-142.

Lessening Restrictiveness

The only way in which a self-contained environment can be made less restrictive is by making it less self-contained.

The list below is designed to offer ways to make a self-contained program less self-contained. It is not intended to be either exhaustive or restricting.

Provision for Extracurricular Integration.

Most residential and some day schools provide a schedule of extracurricular activities for their students. These activities include intramural sports, membership in clubs such as the Boy Scouts or Campfire Girls, religious instruction and participation, and hobby clubs in such activities as art, drama, and music. These activities provide a fruitful area for integration since it is likely that counterparts exist for normal children in the surrounding community. However, while integration for these activities is a step forward, it does not reflect the letter of the law regarding the least restrictive *educational* environment.

Proposed Criterion No. 3.

To be considered an LRE, each facility must provide for non-academic or academic integration. Handicapped children may be bused out or normal children bused in for parts of the school day or for a certain period each week to participate together in either non-academic (P.E., music, art, recess, lunch) or academic activities. While not as convenient as having handicapped children learn in the same environment as normal children, this method of achieving a less restrictive environment does have the advantage of permitting exceptional children use of physical facilities which were perhaps designed especially for them (e.g., schools with physical and occupational therapy equipment, schools with special adaptations for the blind) while still allowing some degree of contact with normal peers.

Proposed Criterion No. 4.

Environments accommodating children who are bused in and out must be assessed in terms of their suitability in making physical accommodations to children who are:

- 1) physically handicapped
- 2) visually impaired
- 3) hearing impaired

Proposed Criterion No. 5.

Environments accommodating children who are bused in and out must be assessed in terms of their suitability in making educational/social accommodations to children by providing:

- 1) education of regular administrators concerning the nature and needs of handicapped children as well as relevant laws
- 2) education of regular teaching staff concerning the nature and needs of handicapped children
- 3) education of normal peers concerning the nature and needs of their handicapped peers
- 4) support services to teachers in providing necessary services to handicapped children
- 5) support services to peers in understanding and interacting with their handicapped peers
- 6) support services to administrators in providing necessary and mandated services to handicapped children
- 7) support services to classified staff in their interactions with handicapped children and in providing services to children and families
- 8) education of parents of normal peers in the nature and needs of handicapped children
- 9) education of parents of handicapped children in promoting their children's development and in gaining access to necessary services for their children.

Proposed Criterion No. 6.

Formulas for support services should be developed for each child. (Fiscal support per child is *not* diminished due to LRE placement.)

Formulas for support services must be developed for the:

- a. blind
- b. hearing impaired
- c. physically handicapped
- d. LD-ED, EMR
- e. SMR

A special subcategory of integration is integration of older students for pre-vocational and vocational preparation. It is highly unlikely that any self-contained school for handicapped children can contain the full range of prevocational and vocational opportunities present in most large comprehensive high schools. The past tendency has been to prepare handicapped children in residential schools for those occupations for which the materials and tools could be found on campus. Thus, deaf males in residential schools, if they were not college bound (to Gallaudet College) were usually trained on-campus in the traditional occupations for deaf people: printer, cabinet maker, upholsterer, dry cleaner, or baker. Deaf females were equally traditionally given training in power sewing or homemaking, and more recently in general office work and keypunch operation. Thus, the occupational choices of the adult deaf were limited not so much by their handicaps as by the limited courses available to them at school.

Proposed Criterion No. 7.

Older students should be given the opportunity and the support necessary to avail themselves of the vocational training opportunities in regular schools. Without this, both the spirit of P.L. 94-142 and the letter of Sec. 504 will be impossible to obey.

IV. IMPLEMENTING THE LRE PROVISION WITHIN AN LEA: PROPOSED CRITERIA

If the spirit of the LRE mandate is to be met in a local school district, certain psychological conditions must pervade the administrators, teachers, parents and students in that school district. These involve attitudes toward handicapped children and commitments to integrating them in the schools.

Proposed Criterion No. 8.

If a given handicapped child can possibly attend a regular class or interact with normal peers, and this is prescribed as part of an IEP, the school he attends should be equipped physically, and the school personnel should be prepared psychologically, to receive the child and to maximize his chances for success.

Proposed Criterion No. 9

As many schools as possible within a school district should be so equipped, so as to improve the chances a handicapped child has of being able to attend his neighborhood school with success, and the school districts' chances of meeting the spirit of LRE.

Placement Options

The LEA administrator attempting to implement LRE provisions must keep in mind considerations that differ from present educational practice. Options must be available that provide different degrees of restrictiveness.

Proposed Criterion No. 10.

Options must be arranged to comply with the provisions of 504 that make the handicapped student's neighborhood school the first option unless that school is proven to be incapable of providing an appropriate program. It is clearly illegal to place a handicapped child before the initial IEP has been negotiated with the student and his parents or guardian.

Proposed Criterion No. 11.

A handicapped child who is new to a district should be placed in a diagnostic classroom until his or her IEP is developed. The child must not be *excluded* during the development period, which can last from four to six weeks.

Proposed Criterion No. 12.

A full range of options should be available in any school district to enable each child to be educated with normal peers and interact with them to the maximum extent possible. The range should include:

1. *Special class placement:* The child's primary assignment is to a self-contained classroom. He or she may be integrated for part of the day for academic and/or non-academic subjects or may interact with normal peers only during such activities as recess, P.E., and lunch.
2. *Resource room placement:* The child's primary assignment is to a regular class. She or he leaves this class for a variable period of time to receive extra help in academic or non-academic areas.
3. *Itinerant services placement:* The child is placed in a regular class but leaves the class for instruction on a 1-to-1 or small group basis by a teacher or by support services personnel such as Communication Disorders Specialists, Physical or Occupational Therapists, or counselors.
4. *In-class services placement:* The child remains in regular class placement all day but receives extra help through tutors, attendants, interpreters, or teacher aides who are present in the regular class and play a support role to the student and/or the teacher.
5. *Services to teacher placement:* The child is placed in a regular class all day and receives no direct extra assistance. However, the teacher has available help with academic programming, behavioral techniques, and special materials to ensure the child's success in the classroom.

In the following sections we outline criteria for the physical, educational, and social accommodations necessary to maximize success in an LRE placement for mildly handicapped children, hearing impaired children, and severely behaviorally disordered children.

Accommodating the Mildly Handicapped (EMR, LD, BD)

Mildly handicapped students are those with academic deficits (educable mentally retarded, learning disabled), defects in adaptive behavior, (behavior disability, educable mentally retarded), and general subaverage functioning that will require special education services.

Lowenbraun and Affleck (1976) describe in detail the provisions necessary for integrating mildly handicapped students into the regular elementary classroom. The following criteria summarize these provisions.

Proposed Criterion No. 13.

A precise educationally relevant diagnosis should be made that pinpoints the child's levels of achievement.

Proposed Criterion No. 14.

On the basis of this diagnosis, an individually prescribed instructional plan should be made.

Proposed Criterion No. 15.

During all educational procedures, continuous child performance data should be kept, thereby allowing the teacher to precisely monitor the success or failure of the educational strategies used.

Proposed Criterion No. 16.

The regular classroom teacher has a right to expect special education resources to follow the eligible handicapped child.

Proposed Criterion No. 17.

Special education itinerant teachers should have carefully specified job descriptions and daily schedules that are available to the regular teacher who has handicapped students in his or her classroom.

Proposed Criterion No. 18.

Regular education personnel should receive further training in assessment skills, individualization of instruction, individualization of curriculum, data keeping, and educational decision making, preparing teaching sequences, and behavior management skills.

Proposed Criterion No. 19.

Modification of the physical setup of the classroom should be performed in order to provide more systematic teaching.

Proposed Criterion No. 20.

The role of the teacher should change to that of an instructional manager who is responsible for the coordination of one or more professionals or paraprofessionals in his classroom.

The regular class teacher who includes handicapped children in his classroom may also need to develop new skills in relating to parents. Many parents of handicapped children will expect through the IEP process to have a much more collaborative relationship with teachers than parents or teachers have previously expected. The regular teacher will need to have a working knowledge of the IEP and LRE components of the law. This may affect the teacher's interactions with the parents of normal students, many of whom can be counted on to expect the same level of cooperation and collaboration regarding *their* children's education. The regular class teacher will have to educate these parents about the compensatory needs of handicapped students without alienating them or their children if the least restrictive environment provisions can be educationally successful for all.

Integrating mildly handicapped students into the secondary mainstream appears to be a much more difficult prospect, though the courts have ruled against ability grouping (*Hobson vs. Hanson*). Kenneth Clark recently observed that this practice is still widespread in the nation's secondary schools. As long as there is ability grouping, there is little likelihood of educating mildly handicapped students with their normal or gifted peers.

Unfortunately, inclusion in extracurricular activities is usually predicated on the previous mastery of skills in which the mildly handicapped student is deficient. One must be able to read music to be in the school band, and able to read a script to be in the high school play. Lacking these skills only confirms the feelings of rejection and unworthiness that so many mildly handicapped students feel in secondary programs.

Clark has maintained that America's secondary schools are undemocratic institutions that thwart the social mobility aspirations of minorities. This is also true to a great degree for many mildly handicapped students.

What is needed is a reevaluation of the role of secondary schools and a change from competitive teaching to a more individualized approach that permits each student to develop in terms of his own needs and abilities.

One of the first crucial areas where such change is needed is vocational education. Many mildly handicapped students are excluded from these programs because of inappropriate and irrelevant academic entrance standards. Moreover, the attitudes of present personnel frequently are unnecessarily overprotective regarding the safety of mildly handicapped students. Retraining of present vocational education personnel in special education could perhaps assist in making secondary programs more viable for the mildly handicapped.

Accommodating the Hearing Impaired: Physical and Educational/Social Accommodations

In order to maximize the chances of hearing impaired children's succeeding in integrated or partially integrated situations the following guidelines are presented. They serve as criteria for evaluating the suitability of the integrated environment within a given school building. Note that these criteria do not mention the quality of education received in the self-contained portion of the school day. It is assumed that high quality one-to-one or small group instruction based on the child's IEP and the best practices known will be employed during that period.

Proposed Criterion No. 21.

Integrated classrooms should be sound treated, with consultation by qualified

audiologists to minimize ambient noise levels and sound reverberations from walls and floors. Usually, carpeting, acoustic treatment of the ceiling, and noise reducing wall treatments are used.

Proposed Criterion No. 22.

Special care should be taken to test hard-of-hearing children's functional use of hearing in the integrated classroom. Some children who function well auditorily in simple acoustical environments cannot do so in the more complex environment in a regular class.

Proposed Criterion No. 23.

A system of visual warnings for emergencies, e.g., blinking or strobe lights, is necessary whenever hearing impaired children or staff are present. Such a system is usually easy to add to existing alarm systems.

No other special physical accommodations are needed, although it is necessary to provide adequate lighting for ease of visual communication.

Proposed Criterion No. 24.

Education of school administrators and teaching staff is basic to the success of hearing impaired children. The following topics should be covered:

1. The nature of hearing impairment
2. The language of hearing impaired children
3. What a hearing aid is and what it can and cannot do
4. Troubleshooting a hearing aid (for teachers of younger children)
5. Elementary manual communication of the form (if any) used by the child
6. How to use an interpreter
7. Deaf persons' speech patterns and simple correction and habituation techniques
8. Conditions for maximizing speech readability.

Proposed Criterion No. 25.

Education of normal peers is also basic. It should include:

1. A basic social studies curriculum strand on the acceptance of difference caused by handicapping conditions (as well as racial, religious, ethnic, and sexual differences).
2. Elementary sign language or other visual communication system (if this is used by the hearing impaired students).
3. Methods of communicating with the hearing impaired.
4. Basic information about the nature, causes, and consequences of hearing loss.

Proposed Criterion No. 26.

Support services must be available to teachers and their hearing impaired pupils. These must include:

1. A curriculum and instruction person expert in educating the hearing impaired, to assist in programming.
2. A trained teacher of the deaf, to assist in instruction and to provide extra tuition when needed. (This is different and distinct from the role of the teacher of the deaf who works in a self-contained room and teaches material differently, though perhaps complementary, to what is learned in the regular class).
3. A communication disorders specialist with specific training in teaching speech and language to deaf children.
4. An audiologist, to provide regular assessment of the child's auditory ability in the classroom; to suggest ways of helping the child use audition more effectively; to provide for hearing aid and amplification equipment repair; and to make earmolds, etc.
5. An interpreter. For children who, as empirically determined, do better using total communication rather than oral only for input, or whose speech is not readily understandable, an interpreter should be provided. The interpreter should be fluent in the form of manual communication used by the child and in reverse interpreting (from manual language and the child's speech to standard English). Interpreters should be bound by a code of ethics such as that employed by the Registry of Interpreters for the Deaf.

Proposed Criterion No. 27.

In any school where there are hearing impaired children, both the hearing impaired children's parents and the parents of normal students should receive education about the needs of the hearing impaired population and encouragement to work together on common goals.

Accommodating the Severely Behavior Disordered

The Population

In order to establish guidelines for determining the least restrictive environment (LRE) for severely behavior disordered (SBD) children, it is necessary to try to identify the specific characteristics that distinguish these children from others. This is especially difficult because there are few specific known etiologies or behavior patterns that reliably identify SBD children. P.L. 94-142 defines a severe behavior disorder as "a condition exhibiting one or more of the following characteristics, over a long period of time and to a marked degree, which adversely affected educational performance." The characteristics are:

1. Inability to learn, which cannot be explained by intellectual, sensory, or health factors.

2. Inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
3. Inappropriate types of behavior or feelings under normal circumstances
4. A general pervasive mood of unhappiness or depression; or,
5. A tendency to develop physical symptoms or fears associated with personal or school problems.

Such a definition could include children who might carry labels such as the following: autistic, childhood schizophrenic, schizophrenic, neurotic, psychotic, pathological, juvenile delinquent, conduct disorder, shy, or withdrawn. More often than not, the label or the distinguishing feature cited reflects the training and theoretical viewpoint of the classifier, rather than the behavior pattern of the child at the time. Since the LRE concept requires more than just a philosophical commitment to "contact with normal children," it is necessary to describe what factors actually restrict the environment of these children.

Restrictive Factors.

Kenowitz, Zweibel, and Edgar suggest four areas to consider in evaluating an LRE for severely/profoundly handicapped children. The four areas are classroom type, internal freedom of site, educational programming, and opportunity for interaction with normal children. Historically, SBD children have been excluded from schools. It is only in the last decade that there has been a general agreement that schools were even partially responsible for the education of these children. But there is no agreement about the obligations and responsibilities of such a role. In delineating the possible restricting factors for a SBD child, we will discuss ways to reduce or eliminate these restrictions. There is, of course, a considerable overlap between these restrictions and those affecting children with other handicaps.

Settings.

SBD children could be placed in several settings such as special schools, self-contained classrooms, and well staffed resource rooms. It would be infeasible and impractical to fund a program for one child. Many districts, even when they form consortiums, often must place SBD children in residential settings. Sometimes SBD children do not have "normal" home situations. Frequently they are wards of the state, or have been removed from their homes by their parents for various reasons. Foster care or group homes are often difficult to find. In these cases, institutions or residential settings are the only remaining alternatives.

Proposed Criterion No. 28.

In the case of institutional or residential placement for SBD children, educational concerns and educational placement must be dealt with separately from the purely custodial concerns. In many cases the living and educational

requirements are combined within the residential setting, offering the child a more restrictive environment rather than giving him the chance for contact with normal students in a school setting.

Internal Freedom.

When a SBD child is placed in a school setting, the internal freedom — i.e., restriction from physical barriers in the classroom — is not a concern except in the rare case of a SBD child with a secondary severe physical handicap.

Proposed Criterion No. 29.

Classroom and school location and safety are concerns that must be addressed in planning for SBD children. Many SBD children exhibit wandering and runaway behaviors, and what the child may encounter when he runs away should be kept in mind. Locations in high density population and traffic areas, in isolated areas, near water, cliffs, or woods, could be hazards to the child. Schools in these locations should not be ruled out, but a plan of prevention must be implemented. Routes available to the child and objects that could cause harm should be noted in the classroom, and a procedure to prevent a child from wandering should be planned and implemented.

Programming.

The best educational program will fail if the school does not deal with both the program of each SBD child and the psychological barriers that may prevent the implementation of these programs.

Proposed Criterion No. 30.

For a child's IEP to be successful, the staff must be able to assess and program for a variety of individual behaviors. Further, the expectations and values of the school staff must be critically evaluated, and in many cases changed.

The inclusion of SBD children in the public school will cause many problems, some concerned with the morale and habits of the professionals in the school community. Failure to consider these may render a well planned educational program ineffective.

Proposed Criterion No. 31.

It is essential to have an effectively planned educational program for the child and a realistically based inservice program for the whole school community for a SBD child to succeed in his least restrictive environment.

Proposed Criterion No. 32.

With such an educational program, more manpower is needed: to assess the child, plan and run programs, collect and graph data, and make program changes. Although a secondary goal of every program is to increase the self-management skills of the child and to move to small group instruction, which will cut back

some personnel, in any type of educational program with SBD children more manpower is needed. Often it is difficult to find extra personnel. A partial list of possible resources that can be used includes paraprofessionals, sociologists, social service agencies, peer tutors, cross-age tutors, parents of the children, community volunteers, community mental health centers, people and resources from community organizations (Kiwanis, Eagles, Lions), community centers, local merchants, senior citizens, and students from local colleges, universities, and high schools. Paying the salaries needed for some of these resources is a good use of P.L. 94-142 funds.

Manpower not included above is the professional staff that is employed by school districts to cover the language, physical education, health, and psychiatric/psychological needs of the SBD child and classmates.

Potential Problems.

Often, the severely behavior disordered child's greatest impact is on the mental health of the staff interacting with the child. SBD children tend to exacerbate the psychological problems of a staff: the behaviors emitted often make professionals vulnerable and unsure of themselves. This vulnerability in turn increases the stress felt from other problems.

Proposed Criterion No. 33.

Inservice must be provided to give a staff specific skills that will prepare them to be able to respond to SBD children. Only through practical experience with SBD children can individuals learn to effectively teach this population. Such training will have to increase the staff's acceptance of differences, and their ability to maintain their mental health while dealing effectively with negative and threatening behaviors.

A second problem for a teacher educating SBD children in the least restrictive environment is the increased number of necessary contacts with other people. There are meetings with specialists, parents, other staff. Even if all of these meetings go well, they are an energy drain.

Proposed Criterion No. 34.

School administrations will have to be sensitive to staff energy problems and plan activities to alleviate or lessen the negative impact of extensive energy-draining interactions.

A problem arises in defining SBD children because no one etiology nor specific behavior patterns are known to identify the child. No matter what specific label the child is given, a least restrictive environment must be found for the SBD population. Reviewing the factors necessary for a successful placement, classroom type can be a special school, self-contained classroom, or well staffed

resource room. As noted earlier, a SBD child, either in a home or institutional setting, must have his educational opportunities in a school setting, not in the more restrictive environment of an institutional setting.

Within the school setting the internal freedom is only a problem for SBD children with wandering and runaway behaviors. As noted earlier, a plan to prevent a child from wandering can be implemented in order to reduce the staff's concern about danger. Such a plan can make most sites accessible to SBD children.

Proposed Criterion No. 35.

When the SBD child is placed in an appropriate setting, his educational program should include direct and ongoing assessment; individualized programs in preacademics, academics, and social interactions; a behavior modification approach to instruction; and daily data collection. This educational program calls for more manpower, which is readily available in most communities and can be funded by P.L. 94-142. This "ideal" educational program, however, cannot be implemented without the direct support of the professionals in the school community. SBD children, more than any other handicapped population, test and may break the educational system because of their unique ability to make trained professionals feel unsure of themselves and, therefore, vulnerable. Most professionals have been trained in similarities and a SBD child will not fit into a neatly categorized box. To help staff accept and understand differences in individuals and the uniqueness of a SBD child, workshops funded through P.L. 94-142 can supply the direct hands-on experience that is needed.

With our proposed setting and factors that are needed for a successful least restrictive environment, a SBD child will gain the opportunity for many normal peer interactions. Through the shared responsibility by all the school staff, a least restrictive environment can be successfully implemented.

V. PROCESSES FOR DETERMINING LRE

Introduction.

The concept of LRE presents unique and far reaching problems and opportunities for local educational systems. It is clear from the preceding discussion that there is much more involved in the LRE movement than simply program modifications. The attitudes, policies, practices, and structures of all education become grist for the mill of change generated by the movement. The impact and extent of change that may result from implementing the spirit of LRE is not known, but can be anticipated to be great.

Before a comprehensive program (one that meets the spirit of the least restrictive concept) can be fully implemented, many touchy issues will need to be faced

and resolved. How far can a school and its staff be expected to bend in order to accommodate any handicapped child? How will handicapped students be graded in regular elementary and secondary programs? How are handicapped students to be supported in order to fully benefit from the program? How will the attitudes of regular staff and students be handled to assure acceptance of differences? How many buildings will need to be made accessible and to what degree? How do suspension and expulsion practices affect the LRE concept? How are the funds necessary to meet the requirements to be found, and will securing these funds be at the expense of the general education program? These are only examples of a myriad of similar critical areas in need of examination and possible change.

The challenge for directors of special education at all levels — urban, rural, large, and small — is to create or devise systems for planning, implementing, and evaluating a special education delivery system that assures flexible options, many provided within the regular education setting.

In order to fulfill this challenge, it is necessary to have a conceptual framework for delivering services comprehensively. Evelyn Deno (1968) developed a highly effective model for delivering special services which is consistent with the least restrictive alternative concept. Deno's model generates levels of services based upon the severity of the handicapping condition. (See Figure 1.)

This model describes very generally the kinds of structural and administrative options that are appropriate for differing levels of severity in handicaps. The more severely handicapped children require more specialized environments while children with the mild and moderate conditions can be served in conjunction with regular educational alternatives.

The tapered design of the model indicates that more students will be in the options for the less severely involved, while fewer children are receiving the highly specialized service options. Some important considerations for planning and implementing this model relate to severity; the more severe the children's handicaps, the more likely that:

1. the program will cost more;
2. more specialized personnel will be needed;
3. continuous in-service will be required;
4. community and agency contacts will need to be broadened;
5. facilities and equipment will be highly specialized;
6. stigmas related to the handicaps will be more apparent;
7. parent interest and involvement will be high;
8. progress will be slow and difficult to document;
9. the curriculum will be more special, and often not determined with precision;
10. the program will be administratively separate from regular education;

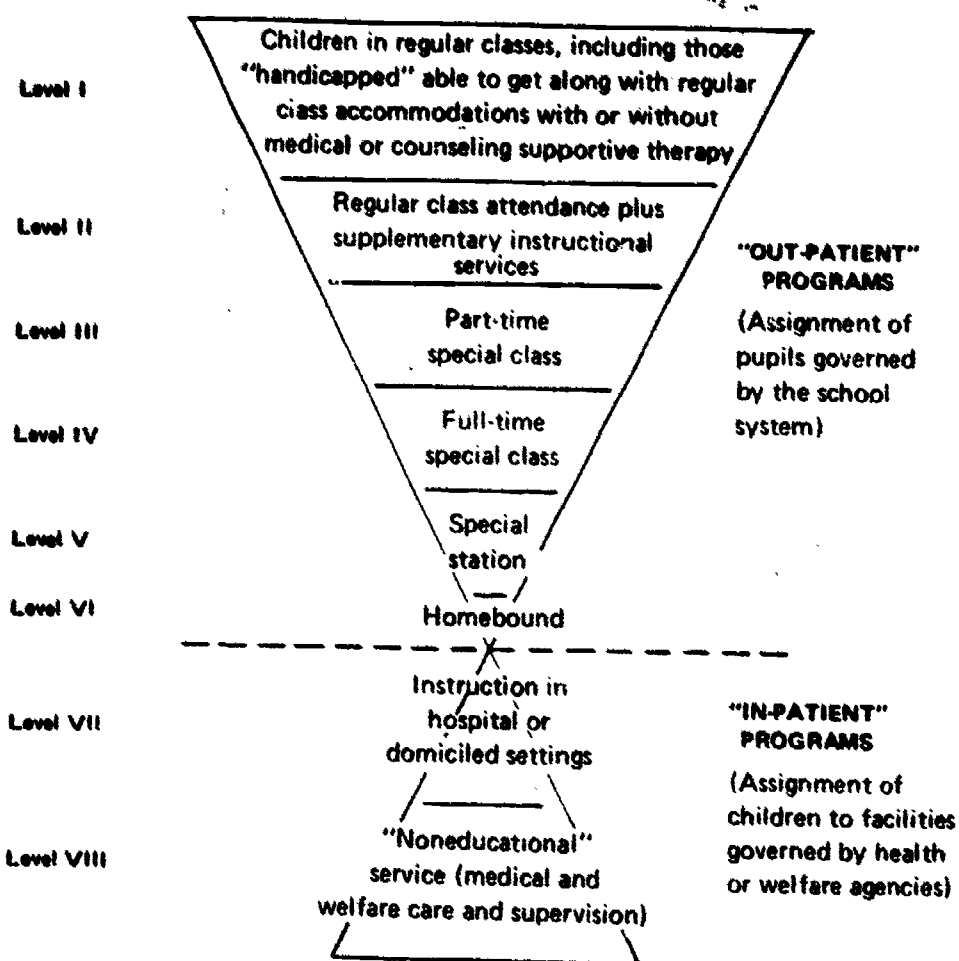


FIGURE 1

Educational aspects of minimal brain dysfunction in children.
Proceedings of the Sixth Delaware Conference on the
Handicapped Child. Wilmington, De.: A.I. Dupont, 1968,
 pp. 41-65.

11. funding will be heavily provided from state and federal sources;
12. eligibility for the program will be easier to document; and
13. community and legislative support will be easier to obtain for funding purposes.

For children with the less severe handicaps, the following program conditions are likely to exist:

1. personnel will need highly developed consultative and organizational skills;
2. program costs will be shared with regular education;
3. inservice training of regular education personnel will be necessary;
4. there will be more administrative contact with regular administrators;
5. there will be less consensus on eligibility and more conflict over programming;
6. union negotiations will increasingly include special education issues;
7. there will be greater possibilities of power struggles between principals and special education supervisory personnel;
8. the need to have regular curriculum adapted will be great and controversial; and
9. the sharing of responsibility between regular and special education will be controversial.

In addition to these general issues, each level of service also is characterized by its own uniqueness and requirements which affect resources, training, structure, and relationships within the school setting.*

From the above, it seems apparent that the shift from more restrictive to less restrictive settings will generate some classic resistance to change on the part of both special and regular educators. Both groups have much to gain and lose in the transition from special education as a parallel administrative system to special education as an interacting part of a single system.

With this background on the forces and issues to be faced in moving toward the concept of least restrictive environments, a more specific discussion on planning and organizing for the delivery of service in LREs can be pursued.

Planning for Specialized Educational Services in the LRE

The first step in planning for the delivery of services in the public school is to clearly define the purpose and direction of the program. Only when everyone

*Readers are referred to the *Madison Program Document* (Specialized Educational Services) for a full description of each level and its uniquenesses.

knows what the common objectives are can the various actors work together to achieve the common purpose.

It is very important to involve all interested parties in arriving at the goals they will pursue together. This includes both internal and external groups. Internally, district-wide decision and advisory groups should make time to deal with the direction of the program. The chief policy group — which may have a variety of names, but is often characterized as the "superintendent's cabinet" — is a key in legitimizing the purpose. It is highly desirable for the director of special education to be a member of such a council or, at the very least, have ready access to the group. Other groups unique to the individual local district need to be identified and consulted about program goals. At a minimum, additional groups should include parent groups (regular and special education), principals, and staff.

Once the important groups are identified, processes should be identified to productively involve the groups in reaching consensus. A number of techniques are available in the literature to help the implementers be effective with the critical groups.

When this process is complete it is likely that a set of goals such as the following will be agreed on:

1. A comprehensive but flexible range of service options will be developed that will provide appropriate educational services to the full spectrum of children with handicapping conditions. This spectrum should encompass all children with handicapping conditions which range from severe through mild.
2. Systems of support to the regular or general educational programs will be developed, designed to help staff teach and manage children with a broader range of individual differences, thereby preventing undue labeling and segregation of children with handicapping conditions.
3. Closer working relationships will be developed with the community and its agencies to prepare the community to receive and understand persons with handicapping conditions. Efforts will also be made to coordinate school programs with other community activities to insure the continuity of education and development for the individual and to reduce unilateral and duplicative efforts.
4. Closer working relationships will be developed with parents of children with handicapping conditions to insure that appropriate and meaningful services are provided to all students and parents, and that their concerns regarding LRE placement are realistically dealt with.
5. Evaluation mechanisms will be developed for describing and measuring positive student change as the primary intended outcome of all services.

The acceptance of such goals has important implications for planning and

development. Issues of impact will have to be addressed.

1. Movement toward a comprehensive range of service options will mean that new models of service delivery will have to be developed and evaluated.
2. An expansion of services will be necessary since currently few systems are able to provide adequate service for all students with a wide variety of handicapping conditions.
3. Better mechanisms for assessment, communication, and planning between the special education and the regular system will need to be developed to insure adequacy of programs in terms of quantity, continuity, and effectiveness.
4. The local district will have to work closely with the Department of Public Instruction to insure approval of new service options which may not be currently approvable.
5. New professional roles (such as consultant teacher, instructional technologist, and inservice training specialist) will have to be developed and tested.
6. Intensive staff development programs for special and regular staff will need to be developed.
7. Better parent, agency, and community liaisons will have to be established.

The next step involves identifying a viable organizing and planning structure. Such a structure must be able to deal with regular school building options for mildly handicapped students as well as district-wide options for the more severely handicapped.

Practically every public school system is organized into three basic levels — high schools, middle or junior high schools, and elementary schools. Utilizing this basic structure allows for similar planning formats to be adopted regardless of the size of the school district. A key to effective planning in large, medium, or small districts is to identify logical clusters of schools that are large enough to provide comprehensive services to most of the handicapped children and small enough to allow for face-to-face communication and accountability.

The following area or school component is most likely applicable to any size school district. The governing variable in this component is the high school. The planning unit at this level comprises a single high school plus all its feeder schools.

A small school district may have only one high school, one middle or junior high school, and two or three elementary schools. In extreme cases, particularly in rural areas, two or more school districts may need to work as one in order to approximate this structure.

In larger districts, there may be several high schools and feeder patterns similar to the above component. Nonetheless, each such component may be used as a basis for the comprehensive delivery of services especially for the mild and

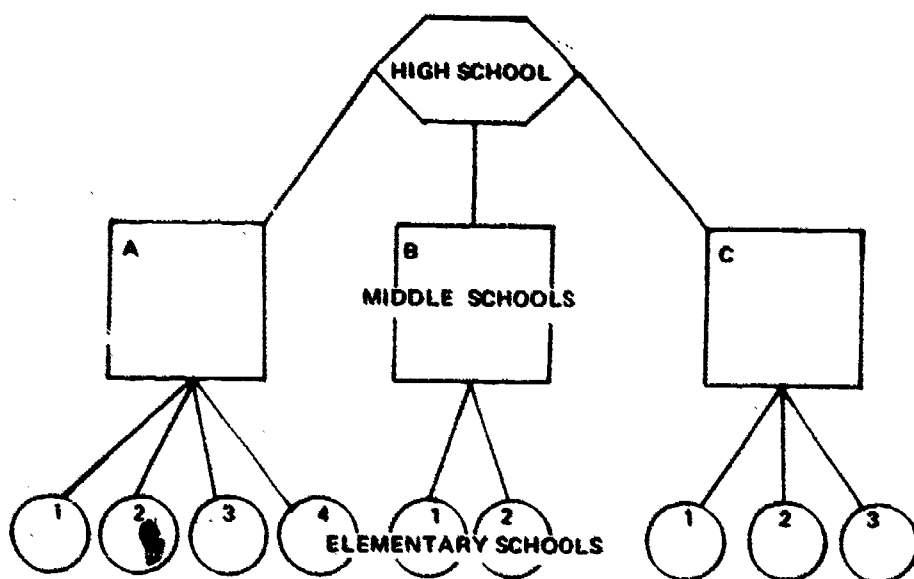


FIGURE 2
ARTICULATION UNIT
AREA OR DISTRICT CLUSTER

moderate conditions. Small districts may need to form one cooperative district to provide services to the more severely handicapped pupils. Large districts may choose to center services for these pupils in one or more of the above structures throughout the city or area.

The above component, while large enough for allowing a comprehensive array of service options to be provided mildly and moderately handicapped students, may be too large for some school districts. If this is the case, the next smallest step would comprise a vertical cluster unit involving the high school, one middle or junior high school, and its feeder elementary school.

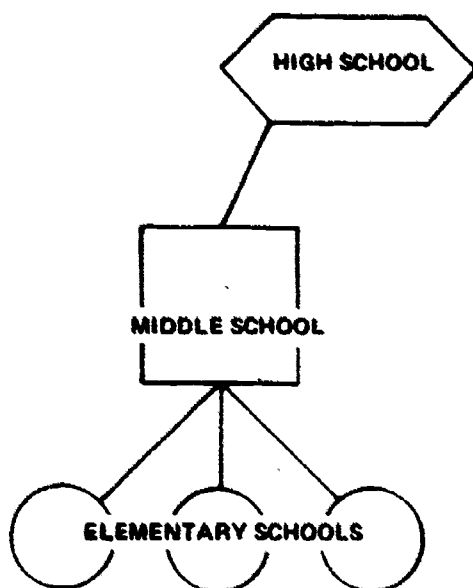


FIGURE 3

This smaller structure is the most basic K-12 unit available and is very useful where school populations are large or where resources are sufficient to support a full service model. This unit also is useful for assuring program continuity for a child from elementary grades through high school.

These planning structures are utilized for all services that are provided within the regular school buildings.

The Planning Process

The planning process should incorporate district-wide planning, vertical or area cluster planning, and individual school planning.

District-Wide Planning for Specialized Services

District-wide planning for special educational services is important and necessary for several reasons:

1. There are some handicapping conditions that are relatively rare (low incidence) and that require either highly specialized instructional technology or facilities. The few numbers of children and the high cost of serving them require district-wide planning and service. In many instances, the basic

program for the entire district will be conducted in one cluster unit. Programs for hearing impaired and orthopedically handicapped students are examples. Even in this paradigm, however, individual children should be regularly considered for integration into neighborhood schools when their IEP warrants such placement.

2. The scarcity of resources which prevents the development of the total comprehensive range of services in each area also requires district-wide planning. Under these conditions, a flexible transfer policy is crucial to meeting the needs of handicapped students.
3. The planning for horizontal program development should occur district-wide to assure balance and consistency (e.g., elementary curriculum and policy issues should be district-wide issues).
4. Priority setting, policy decisions, budgeting, and resource allocations must occur at the district level to assure consistent direction and the fair distribution of resources.

To implement district-wide planning strategies, the broad based advisory groups utilized by the district are crucial. The discussions on program issues are most often made at the superintendent's cabinet level for district-wide programs using citizen input.

Vertical Cluster Planning

This unit promises to be the most efficient and effective structure for total specialized services planning. It is composed of representative schools from all levels of the cluster. The schools are interdependent as a result of the flow of students from elementary, to middle, through high school; they also share common problems resulting from shared demographic factors.

For the unit to be maximally effective for planning purposes, it is crucial that time be made available regularly for principals and building staff to meet and plan with the special education administrative staff. The amount of time to be made available would depend on a number of factors but a minimal recommendation would be quarterly meetings for formal planning and review sessions; informal sessions might be held at any time to solve specific problems.

Areas of interest that might be considered by this unit in planning probably would include:

1. working out with special education department needs assessment procedures for establishing services;
2. developing procedures for evaluation of personnel and service effectiveness;
3. determining the specific functions to be played by the psychologists, social workers, speech and language therapists, and other support staff assigned to the cluster;
4. determining the way that cluster assigned personnel are to be used in the

individual buildings;

5. planning for the continuity and articulation of programs for handicapped children;
6. developing local operational procedures for the multidisciplinary teams operations; and
7. clarifying joint decision-making areas between the building principal and the department.

The time for planning with a workable group which involves communication and consistency promises to help reduce the feeling of isolation of the principal, recognizes his role in shared decision making and planning, and provides "grass roots" information to the special education department that is so necessary in validating program development.

Individual School Planning.

The planning occurring at the district-wide and the cluster levels should have represented input from all individual buildings, and consensus regarding priorities and direction should guide the planning at the building level.

It is at the building level that the effectiveness of the larger planning efforts is determined. Only when issues such as staff supervision, program guidelines, procedures, communication flow, and other critical program issues are planned on a larger basis than the individual class or school can a district hope to evade the ever-present danger of constant crisis intervention.

Procedures for Planning

For planning to be effective between the basic planning structures — the vertical cluster and the special education department — procedures have to be developed that will facilitate the gathering and analysis of information to be used in planning.

The individual schools comprising the vertical cluster will have to contribute important information to guide planning. This information might include:

1. unique building priorities, programs, or conditions;
2. official referrals for service;
3. teacher nominated problem areas;
4. results of any formal screening or needs assessments;
5. facilities data;
6. special needs of an indirect service nature such as regular staff inservice; and
7. relationships of special needs to overall program.

Similarly, the special education department will need to provide the following kinds of information:

1. directional framework for services — goals and objectives;
2. specific data related to initiating, operating, and evaluating programs;
3. criteria for program establishment;
4. legal parameters;
5. resources available, possible, or needed; and
6. catalogue of skills or competencies available to the unit.

With these types of data objectively collected and available for planning meetings, it is expected that principals and special education coordinators or supervisors will be in a better³ position to negotiate a service delivery plan which is mutually developed and supported. Such a plan likely would include such elements as:

1. a description of the range of services to be provided at the district and vertical cluster level;
2. a plan showing which buildings would house which programs;
3. the support to be expected from all parties;
4. a plan for integrating special programs into the unique programs operating in the buildings;
5. a description of an ongoing staff development or inservice program;
6. delineation of the mutual responsibilities of principals and special supervisors; and
7. a plan for how the program is to be evaluated.

Obviously other elements are likely to be considered and included, but the important factor here is the cooperative planning mechanism that brings together all parties to produce a workable plan for serving handicapped children in the least restrictive alternative

Mutual Contracting for Services

In order that the planning process lead to specific mutually understood direction and actions, it is recommended that a systematic management process be utilized that will provide a record and an evaluation vehicle for progress toward mutually determined objectives. This Service Delivery Plan or Contract should specify important conditions such as:

1. clear statement of objectives;
2. personnel responsibilities (mutual);
3. accountability for mutual actions;
4. methods of evaluation and monitoring; and
5. others.

The negotiated plan may be comprehensive or restricted, long term or short term, service oriented or task oriented; it may involve necessary, continuous functions or new, creative functions depending on the needs and priorities that have been determined and agreed upon.

A suggested format used in the Madison, Wisconsin Public Schools is suggested below. This has been adapted slightly from the MBO contract format and is presented only as one suggested approach. Others may be more acceptable.

Contract or Plan Format

1. *A precise description of the project, process, or skill to be evaluated in this agreement. This should include (to the degree that is possible at the initial conference):*

Intent of what is to be done, outcomes to be expected, procedures to be used, and specification of mutual responsibilities

- a. Is item really a priority item or is it only something easy to agree on?
- b. Can the outcomes be measured either objectively by some instrument or assessed subjectively by one of the parties? Subjective opinion is a valid assessment device but the parties involved should understand and agree about when subjective opinion will serve as the basis of evaluation. (See also No. 2).
- c. Is this a short term or long term objective? When will it terminate?
- d. Can it/should it be classified as regular, problem solving, or innovative? Such classification may be helpful to both parties regarding the context of the agreement.
- e. Has this item been reached by consensus or was it prescribed or insisted upon by one of the parties? Consensus should dominate except in unusual cases.

2. *A specification of person(s) to do the monitoring and evaluation of No. 1. A description of exactly how this/these person/persons will monitor/evaluate No. 1 (visitations, conferences, reports, other materials, etc.) and, to the degree possible at the initial conference and agreed to by the individuals involved, what constitutes good, average, poor progress.*

- a. Is the individual competent to do the monitoring/evaluating? If not, will a third party be brought into the agreement?
- b. Does the individual have the time to do the procedures agreed to in the evaluation/monitoring section? If any of the monitoring/evaluating procedures were left out (for whatever reason) would both parties still believe that a valid evaluation had taken place? What procedures on the part of either party could not be left out without invalidating the contract?

- c. (See a in No. 1 above) Where subjective assessment is agreed to, what constitutes good, average, or poor progress according to the parties? This should be understood as fully as possible by the parties involved.
 - d. In some cases one may only be able to evaluate the *actions* involved rather than the actual *outcome* where actual outcome is elusive. The difference between *actions* and *outcome* should be understood.
3. *A description of any materials, resources, other aids not readily available but needed to properly execute this agreement and who/how will see that this is provided.*
 - a. If materials/resources/aids are necessary to the completion of the contract, who will get them and by what date?
 - b. Are such materials, etc., *absolutely critical* to the contract or are there alternatives if for some reason it is subsequently determined that the agreed materials, etc., cannot be supplied?
 - c. When would the contract become invalid if the materials, etc., were not made available?
 4. *How often will the evaluator/evaluatee meet to officially review progress? (This meeting not to be confused with regular meetings held in the process of evaluating.) Once a quarter is recommended.*
 - a. Specific dates are a *must* for *official review sessions*. A specific day is best with "in the week of . . ." being the most latitude allowable.
 - b. A typed copy of the review session should be made available to both parties. It should be a fair recording of what had taken place *quantitatively* and *qualitatively* to date. It is particularly important that understanding and agreement be reached at the time of the *official review* session and that the understanding/agreement be fairly and accurately translated.
 - c. The importance and specific times of the *official review* sessions do not imply that any number of unofficial review sessions cannot be held. No record of unofficial review sessions need be kept.
 - d. In the *official review session* only the items agreed to in the contract should be discussed and recorded. When the official review session has been completed to the satisfaction of both parties, then other topics can be opened up.
 5. *Any other information not included in No. 1 through No. 4 but felt to be relevant to the agreement.*

Task Contingent Contracting may occur a number of different ways on a number of levels. Divisions may develop comprehensive service delivery plans with one another but it is likely that individuals or groups will negotiate task contingent contracts with other negotiating units and with their supervisors. In this way, Task Contingent Management becomes both an organizational planning

mechanism as well as a staff or unit evaluation system. The flexibility of the system is tremendous but it always involves accountability and evaluation.

The major problems with such a system relate to the time needed to develop and monitor contracts, the need for flexible managers and change oriented staff, and the increased strain and need for communication between divisions. However, the payoffs of being prepared promise to be great at a time when greater interdependence between regular and special education is assured.

RECOMMENDATIONS

1. *Recommendation to States:* A statewide needs assessments should be taken to establish the status of each LEA or other service unit within the state in its response to the LRE mandate. If discrepancies are found between LEAs, the following model could be implemented.
2. *Technical Assistance for LEAs:* A number of school districts which demonstrate a high level of compliance could be financially assisted to become demonstration/training consortium leaders. They could be paired with non-complying districts and charged with an active role in providing technical assistance to facilitate broader compliance in each state. Target goals could be set for each year, such as refinement of assessment procedures or curriculum building. Institutions of higher education could assist in needs assessment and inservice activities. Positive reinforcement would accrue through financial assistance in reaching each targeted goal.

As a technical assistance model developed, it would be important to identify at least one area of strength in each of the LEAs receiving help. The LEA could thus participate as a trainer in that one dimension. For instance, District X after three years of assistance has an excellent vocational program with handicapped and non-handicapped students fully integrated. In this one program aspect they are eligible to provide training for districts which are unable to provide a program that meets the letter and spirit of the law.

3. *State Funding Formula:* One great obstacle to implementing the LRE provisions of 94-142 is a rigid state funding formula which acts to provide incentive for placing handicapped students in more restrictive environments. The Washington State Legislature, for instance, raised the student-teacher ratio of resource rooms from 26 to 1 to 35 to 1. This action has led to an increase in numbers of special classes and the discontinuance of the less restrictive resource programs. A similar phenomenon has been reported in the state of Connecticut (Weatherley and Lipsky, 1977).

States that base their funding for education of the handicapped on eligibility

criteria paired with absolute and auditable time requirements in segregated classes mitigate against any reasonable attempt of an LEA to comply with LRE provisions. It is recommended that the only funding formula that truly meets the letter and spirit of the law is one that follows the students and results from IEP negotiation and implementation.

A survey should be made to determine the kind and comprehensiveness of curriculum sequences used in programs for handicapped students. After the information has been gathered, technical assistance should be provided to those districts lacking curriculum sequences or having incomplete curriculum sequences.

4. *Recommendations to School Districts and Building Clusters:* In addition to the specific steps and procedures outlined earlier in this paper for implementing the LRE provision, the following suggestions and cautions are given.
 - a. Training packages should be developed for building-level staff persons, including the principal, the teachers, the support staff, the custodial staff, and the transportation staff to impart skills in handling exploitative situations affecting handicapped students.
 - b. Training packages should be developed for non-handicapped students to assist them in their relationships with handicapped students.
 - c. Training packages should be developed for handicapped students to give them skills in avoiding dangerous or exploitative situations, and in being assertive when they are faced with such situations.

An emerging problem is the use of handicapped students to meet racial desegregation quotas, particularly in urban school districts. The handicapped student is particularly vulnerable because he and his parents are accustomed to busing. However, prior placement on the basis of race is inconsistent with the IEP and provisions of 94-142 and the neighborhood school provision of section 1115 of the Vocational Rehabilitation Act of 1973. It is recommended that the Commissioner point out this issue to SEAs and strongly recommend the discontinuance of such practices.

CONCLUSION

As with all attempts to use one of society's institutions as an instrument of primary social change, the implementation of the LRE provision must occur before there is a systematic, scientific analysis of its efficacy in producing the desired outcomes. It is not yet known whether physical integration actually does produce the "experience, understanding, and the ability to provide peer encouragement" envisioned by Daniels (p. 21), or, conversely, will "lessen the quality of education received by both regular and special children," as feared by the AFT (Shanker, 1977b).

The authors have attempted to come to grips with some of the complex, multi-faceted issues involved in implementing the LRE provisions of P.L. 94-142. At the present time we conclude that implementing the provision is an affirmation of a civil right of all handicapped children, but that the pedagogical benefits accrued to normal and handicapped children will depend entirely on the good will and prodigious efforts of parents, professionals, students, and the general public.

Meeting the letter, and particularly the spirit, of the law will call for a reassessment of the use of schools as sorters, a new look at the education of all children, and considerable change in current educational thought and practice.

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APPENDIX

A Checklist Regarding Proposed Criteria:

Proposed Criteria:

Yes No

1. If a child is placed in a totally self-contained setting, has it been determined legally and medically that the child or the society would be harmed by his removal from that setting?
2. If a child is placed in a day or residential school, does it provide opportunities for systematic interaction with and proximity to normal peers?
3. Does the facility provide for non-academic or academic integration?
4. Has the integrated environment been assessed for its suitability in making physical accommodations for children who are physically handicapped, visually impaired, hearing impaired?
5. Has the integrated environment been assessed for its suitability in making educational/social accommodations to children by providing:
 - education of regular administrators
 - education of regular teaching staff
 - education of normal peers
 - support services to teachers
 - support services to peers
 - support services to administrators
 - support services to classified staff
 - education of parents of normal peers
 - education of parents of handicapped children
6. Have formulae for support services been developed on an individual basis for children who are blind, hearing impaired, physically handicapped, LD-ED, EMR, and SMR?
7. Have older students been given the opportunity and support necessary to avail themselves of the vocational training opportunities in regular schools?
8. If a handicapped child is attending a regular class or interacting with normal peers, as prescribed by his IEP, has the school been equipped physically, and has its staff been prepared psychologically, to receive the child and maximize his chances for success?

9. Have as many schools as possible within a district been equipped physically and their staffs prepared psychologically to receive handicapped children?
10. Have all placement options been arranged to comply with the provisions of 504 making a child's neighborhood school his first option unless that school is proven to be incapable of providing an appropriate program?
11. Have handicapped children new to the district been placed in diagnostic classrooms until their IEPs are developed?
12. Is a full range of options available in every school district?

For mildly handicapped students, have these criteria been met?

13. Has a precise, educationally relevant diagnosis been made that pinpoints a child's levels of achievement?
14. Has an individually prescribed instructional plan been based on this diagnosis?
15. Are continuous child performance data kept during all educational procedures?
16. Have special education resources followed the eligible handicapped child into the regular classroom?
17. Are there carefully specified job descriptions and daily schedules for special education itinerant teachers or resource teachers, and are these available to the regular classroom teacher who teaches handicapped children?
18. Have regular education personnel received extra training in assessment skills, individualization of instruction and curriculum, data keeping and educational decision making, preparing teacher sequences, and behavior management skills?
19. Has the classroom's physical setup been modified in order to provide more systematic teaching?
20. Has the teacher's role changed to that of an instructional manager responsible for coordinating one or more professionals or paraprofessionals in his or her classroom?

For hearing impaired children, have these criteria been met?

21. Has the classroom been sound treated in consultation with qualified audiologists?
22. Has hard-of-hearing children's functional use of hearing been tested in the integrated classroom?
23. Has a system of visual warning for emergencies been installed?

24. Have school administrators and teaching staff been educated to the nature and needs of hearing impaired children?
25. Have normal peers been educated concerning the nature and needs of hearing impaired children?
26. Has the full range of support services necessary been made available to teachers and their hearing impaired students?
27. Have the parents of both the hearing impaired children and the normal children been educated about the needs of the hearing impaired children?

For severely behavior disordered children, have these criteria been met:

28. When, SBD children are placed in residential or institutional facilities, have the educational concerns and educational placement been dealt with separately from the purely custodial concerns?
29. Have safety concerns regarding classroom and school location been addressed?
30. Is the staff able to assess and program for a variety of individual behaviors? Have the staff's expectations and values been evaluated and, where necessary, changed?
31. Is there an effectively planned educational program for each child and a realistically based inservice program for the whole school community?
32. Have all manpower needs been addressed and met?
33. Has the staff received adequate inservice training to acquire the specific skills necessary to respond to SBD children?
34. Are the school administrators taking into account their staff's energy and resources in planning? Are they sensitive to staff "energy-drain" problems?
35. When the SBD child is placed in an appropriate setting, does his educational program include the following: direct and ongoing assessment; individualized programs in preacademics, academics, and social interactions; behavior modification approach to instruction; and daily data collection?

SECTION II

Assessment of the Complexity of the Least Restrictive Environment Provision of P.L. 94-142

Gregory F. Aloia

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CHAPTER I

INTRODUCTION

The LRE component of Public Law 94-142 represents a complex and controversial issue. Much confusion and emotion currently exist in the field of education as to its meaning, scope, and method of implementation. Of all the related issues in the new public law, none seems to generate as much intensity as the LRE doctrine. No other aspect of the law is so closely associated with the physical relocation of handicapped children from one setting to another. Whether the relocation represents movement from a program, classroom or an institutional setting, concern is expressed.

In the development of this paper many professionals were queried as to their perception of the key components of the new law. Without fail the LRE doctrine was mentioned as the most critical component in the initial phase of implementing the public law.

Due to the complexity of the issue, the approach utilized by this writer in the development of this manuscript was to systematically assess the current state of the art in relation to the LRE doctrine. This was done through: a) a review of the current literature available on the LRE concept, b) observation of current practices in LEAs, institutions, and private agencies, c) interviews with administrators, teachers, and parents and d) survey of an entire school district consisting of special education, regular education, and administrative personnel. The objective of this writer was to document as many possible facets of the LRE concept as was presented by the existing data base.

The format of this paper is divided into three chapters. The first chapter will examine the attitudes and expectations of parents, teachers, and administrators in regards to the LRE doctrine. The general issues and concerns surrounding the LRE component of Public Law 94-142 will be presented.

The second chapter will systematically explore the Federal Regulations as they relate to the LRE doctrine. The arrangement of this chapter will follow the existing outline of the various sections found in the regulations for Public Law 94-142. Each section of the regulations that is examined will contain, where appropriate, recommendations, forms and suggestions for implementations, as well as, implications for developing a self-study guide.

The third chapter of the paper will outline a series of recommendations in addition to those suggested in part two. The recommendations will hopefully address some of the concerns related to the LRE doctrine that were not highlighted in other chapters of the paper.

1. LRE ATTITUDE SURVEY

In preparation for the writing of this manuscript, a survey of an LEA was conducted to assess the current knowledge base and understanding of the Public Law and the LRE doctrine (Aloia, Knutson, Minner, and Von Seggern, 1977). Several interesting insights resulted from this effort.

a) *Sample:* The sample consisted of 107 individuals representing the regular class teachers, special class teachers, resource room teachers, classroom aides, school principals, district level administrators, school psychologists, and other support persons. There were 28 males and 79 females with an average years experience of 8.2 years. The racial composition of the sample consisted of 90 whites, 3 blacks, 9 Mexican-Americans, and 5 who indicated other racial preferences. There was one Ph.D. and 48 masters degrees throughout the sample.

b) *Results:* Results indicated that much confusion exists regarding the understanding and definition of the LRE doctrine. This confusion was found to exist between and within the various levels of each school as well as through the LEA as a whole.

The most obvious discrepancy in the knowledge base yielded by the survey instrument was found in relation to the definition of the LRE concept. The following is a list of definitions provided by staff members when queried as to the meaning of the least restrictive environment.

- 1) Freedom of movement for physically handicapped children.
- 2) Environment closest to the regular class.
- 3) A regular schedule.
- 4) A setting where minimum help is needed.
- 5) Socialization of a child.
- 6) The maximum growth of a student.
- 7) The environment most like the regular class.
- 8) The environment that is least distracting to the student.
- 9) Nonstructure.
- 10) Flexible.

As indicated from the above, very few if any of the subjects had a true understanding of the complexity of the concept of the least restrictive environment. It is interesting to note that, prior to this survey being undertaken, the LEA provided its personnel with six inservice workshops on the new Public Law and components of that law.

The survey also highlighted several other areas in relation to the LRE component of the law:

- 1) There was a tremendous inconsistency of knowledge among the staff

members in regards to the actual placement procedures of the handicapped children in both academic and nonacademic settings.

2) Most schools in the LEA did not have full services resulting in many handicapped children being currently bused to other schools for programs and services. The knowledge that this was taking place ranged from complete understanding by some staff members to no knowledge or understanding at all by others.

3) Responses by staff members within the same school were often confused and contradictory about the placement location of their handicapped students. Very few in each school were aware of the actual location and nature of programs for the handicapped children.

4) Very few subjects were aware of the LRE continuum within their schools.

5) The largest body of ignorance was found to exist among aides and para-professionals operating in the classrooms.

Needless to say, the state of the art of implementing the LRE doctrine was dismal at best. It should also be noted that this condition was not unique to this particular LEA, but appeared to be quite similar across other LEAs.

The survey helped to shape the posture of this paper by focusing on many specific aspects of the issues relating to the LRE concept. The results of the survey were also responsible for shaping some general recommendations for any future inservice training efforts and/or evaluation of the level of implementation of the new public law.

2. LRE CONCERNS OF PARENTS, TEACHERS, AND ADMINISTRATORS

The complexity involved in the LRE doctrine can be seen in the concerns expressed by parents, teachers, and administrators. Any attempt to successfully modify programs, services or relocate handicapped students will necessitate a commitment on the part of these groups. In order to appreciate the multi-faceted nature of their concerns, a brief overview of each group will be presented.

a) *Parents:* Parents, are generally committed to protecting their handicapped child even to the point of failing to appreciate the potential improvements and benefits that may occur from better programs and services. This protection and the intensity of involvement of parents tend to increase as the disability of the child increases from the mild and moderately handicapped to the severely and profoundly handicapped. If a current program is providing the basic needs of a handicapped child in the eyes of the parents, they may be hard-pressed to accept what appears to be arbitrary changes in programs and/or services under the rubric of "mainstreaming". This appears to be the case especially in terms of

relocating their handicapped child for the sake of improving the child's educational potential (academic/vocational skills). Much concern, for example, has been expressed by parents that their handicapped child be protected from intimidation of non-handicapped in a less restrictive setting. Fear of ridicule, rejection, and humiliation have been expressed by all parents concerned. Needless to say, this is a sad indictment of the non-handicapped child as well as our ability to educate children in tolerance of other.

Horejsi (1975) noted that most parents typically have mixed reactions regarding the removal of an institutionalized child from his residential placement for enrollment in community programs. He states that parents fear that the child will receive an inappropriate education in this less restrictive setting. Also, the return of a child to the family on a full time basis can only rekindle potential personal conflicts and anguish that parents experience in originally deciding to send the child away to live in a residential setting.

Horejsi (1975) goes on to note that another obstacle for implementation of the LRE doctrine may come from parents opposed to placing their handicapped child in any special education setting. Some parents feel very reluctant to place their handicapped child in a special class, day school, or residential school. They feel that institutionalized placements are least desirable because they view their child as "different" if he/she has to be in a specialized setting. These parents apparently tend to equate educational and social success with the regular class and failure with the more restrictive settings like special schools or residential schools.

An indication of the extent of these problems can be found in two recent examples. The first involves an LEA's attempt to relocate the existing TMR program from an isolated special school to a new building adjacent to a junior high school campus. Not only would this relocation improve the physical structure and the environment, but would also greatly improve the possibility of services and programs to the handicapped child. Initially, parents were very resistant to the idea. They felt that the existing program for their handicapped child although somewhat limited, was meeting their child's needs and therefore were hesitant to "rock the boat." The special education staff were also apprehensive about the move, sensing a possible threat to their existing programs. Therefore, much effort was expended by the LEA to insure that the Board of Education would approve the bond issue to build the new facility. This was followed by an extensive public relations campaign by the LEA to insure acceptance of the bond issue by the public. The LEA is now currently planning the facility and has actively involved the parents and special education staff to insure their increased commitment to the new facility, programs, and services to be developed.

Although, there are obvious advantages to the move, the underlying resistance is

still evident. There still exists much concern over the unprotected exposure of handicapped children to the mainstreamed environment on the regular school campus. If it were not for the genuine interest and sensitivity on the part of the LEA to these parent's and staff's concerns the building program and all its benefits may have been defeated. Yet, on the surface one would have expected the parent groups to be overwhelmingly in support of the LEA's intent to develop a new program for their handicapped children. This especially should have been the case after special education was ignored or given a very low priority by the LEA for so many years.

The second example involves the efforts of a local state-operated facility for the mentally retarded to de-institutionalize programs and services. Parents initially were very reluctant to support any attempts to mainstream their children into the local community programs and services. However, the professional commitment of the staff, the gradual and systematic exposure of their students to successful experiences, and the increased involvement of parents in the total process were instrumental in reversing the initial parental attitudes of resistance. Many of the same parents are now advocates of the entire process.

These changes in attitude and involvement of parents over time were highlighted in an article in the Tucson Citizen (January 19, 1976) in which a report on state hearings revealed that two groups of parents were actually at odds about improving programs and services for the handicapped children. One group of parents was very apprehensive about placing their children in less restrictive settings than the institution. These feelings were due primarily to their lack of exposure and/or involvement in any programs designed to serve their children outside of the institution i.e., mainstreamed classes. Other parents who had been involved with the integration of their children into community-based programs were very supportive of the efforts of the state to improve programs and services for the handicapped in this manner.

Therefore, it is important to consider these parental concerns, as well as, a transition time required by parents to adjust to the benefits of community-based programs for their children. This adjustment time will be a critical dimension in insuring that the LRE doctrine moves from the letter of the law to the spirit of the law while still maintaining parental support.

b) *Special Education Teachers:* The special education teachers must also be sold on the principles involved in the LRE doctrine. Many teachers perceive the LRE doctrine and its implementations as a threat to their existing programs and/or their skills and professional competencies.

Similar concerns such as those expressed by special education staffs were also noted by Horejsi (1975) regarding institutional staff members. They perceived the results of the LRE doctrine to be the possible loss of jobs and positions, as

well as, the general decline of the institution as more and more handicapped children were integrated into community programs. There was also concern regarding the adverse affects on the economy of small rural communities where the institution represents the major employing agent in the area.

Thus, both special education and institutionalized staff members indicated that less restrictive settings could not adequately serve the needs of their population and that the implementation of the LRE doctrine could result in a decline in the quality of services to handicapped children. The extent to which these problems currently exist will reflect the potential level of resistance towards implementation of the LRE doctrine.

c) *Regular Education Teachers:* As the movement towards the spirit of the LRE doctrine increases, the involvement of the regular class teacher with the handicapped child will increase. The concern that has been expressed by the regular class teachers: (1) does not appear enthusiastic about receiving harder to teach children (Melcher, 1971), (2) is unable to handle the range of individual differences presented by a mainstreamed child (MacMillan, 1971), (3) is unfamiliar with the characteristics of the handicapped child (Brooks and Bransford, 1971), (4) has traditionally received little or no exposure to exceptional children (Martin, 1974) (Yates, 1973), (5) has received little information from regular education literature regarding the process of mainstreaming (MacMillan, Jones, and Meyers, 1976), and (6) is resistant to altering existing teaching styles to adjust to the handicapped child (Nix, 1977). It is apparent that, if regular education is to play a meaningful role in the qualitative implementation of the LRE doctrine, these concerns must be addressed.

d) *Administrators:* The role of the administrator from the coordinator of the IEP process to the superintendent of the LEA is critical in the implementation of the LRE doctrine. There must be commitment and support of the LRE process if it is to be successful. However, Nix (1976) indicates that there is concern regarding the impact of mainstreaming handicapped children into their systems, especially in relation to costs. As budgets become more and more limited, it will be important to insure that the basic tenants of the LRE doctrine are not compromised as a result.

A superintendent indicated that, to date, the commitment and understanding of administrators towards the LRE doctrine is very limited at best. This is primarily due to the administrators failing to perceive their importance in the involvement of the mainstreaming process. Until the importance of Public Law 94-142 is adequately perceived by administrators as a main component of the overall educational program, they will fail to assume a key role in its implementation.

This concludes chapter one of the paper. The second chapter will address the

various components found within the regulations and their impact on the implementation of the Least Restrictive Environment Doctrine.

CHAPTER II

1. GENERAL MODEL OF LRE PLACEMENT OPTIONS

**Sections 121a-132(b), (1), (2),
and 121a - 551(a)**

Section 121a-132(b), (1), (2) and Section 121a - 551(a) require that each LEA provide a continuum of alternative placements to meet the needs of the handicapped child.

It is recommended that each LEA develop a comprehensive continuum of services to address this requirement. To assist the LEA's in their efforts to develop a comprehensive spectrum of services, a general model highlighting the potential points along a continuum of placements is presented below.

The general model does not directly address the qualitative aspects of the individual placement settings. (This component of the LRE doctrine will be explored in another chapter of this paper.) However, the general model and its components were generated from two assumptions that indirectly address the qualitative component of a placement. These assumptions are:

- a) a placement option must exist before a child can receive services, therefore it should be documented.
- b) the more options available in any one primary setting, the greater the flexibility in designing a child's programs.

The general model is to be used primarily as a self-study guide to enable each LEA to assess the LRE potential within each setting as well as to encourage LEA's to develop a similar one that truly reflects their full placement options. However, it is recommended that field testing be done to insure that the proposed model is both reliable and valid for use by the LEA's. Thus, if the various components of the model were included as part of a self-study guide, they would not only indicate the possible options for each LEA to consider, but also provide direction as to what "best practices" could be in terms of services available to the handicapped child.

A general model of this kind would present several advantages for an LEA:

- 1) Each placement team can have easy access to the primary placement setting,

- and alternatives for any handicapped child within those settings.
- 2) Each LEA can assess its placement options within each primary setting to insure that sufficient flexibility exists.
 - 3) Parents can see the options available for their children.
 - 4) The placement options of all primary settings can be examined to insure that there is proper intra-and inter-agency cooperation.
 - 5) Any modification in placement alternatives can be easily charted over time as the LEA moves towards a more qualitative implementation.

The first phase of the general model was developed by determining what primary placements should be available to all handicapped students through the LEA. Each child should have designated in his/her IEP a primary placement assignment based on the number of hours/minutes spent each day in that setting. These points along the continuum of primary placements will facilitate the placement team's decision in assigning a primary placement.

This phase of the general model is represented by the following primary placement settings:

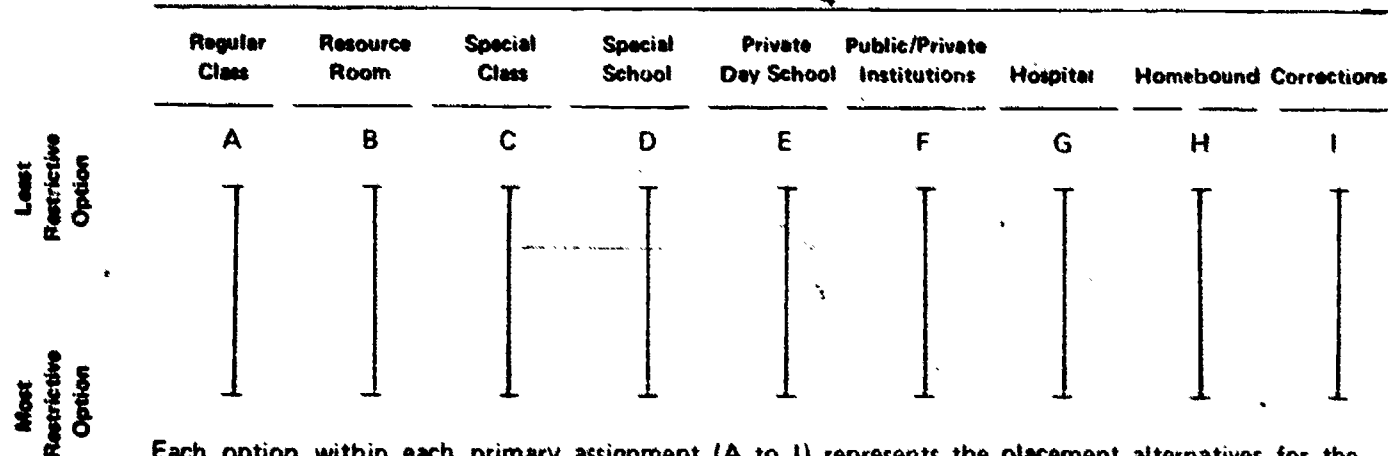
- a. Regular class
- b. Resource room
- c. Special class
- d. Special school
- e. Private day school
- f. Residential, public/private
- g. Hospital
- h. Homebound
- i. Corrections

Please refer to *General Model - Primary Placement Settings - Horizontal Continuum*.

GENERAL MODEL

c) PRIMARY PLACEMENT SETTINGS 'HORIZONTAL CONTIUM

Each point along the contium represents the primary assignment of the handicapped child as indicated in the child's IEP.



Each option within each primary assignment (A to I) represents the placement alternatives for the handicapped child. The more options, the greater the flexibility in programs to achieve the Least Restrictive Setting for all handicapped children.

The second phase of the general model consisted of generating a series of placement options within each of the primary settings. This phase of the model is represented by a series of forms reflecting the variations within each primary setting.

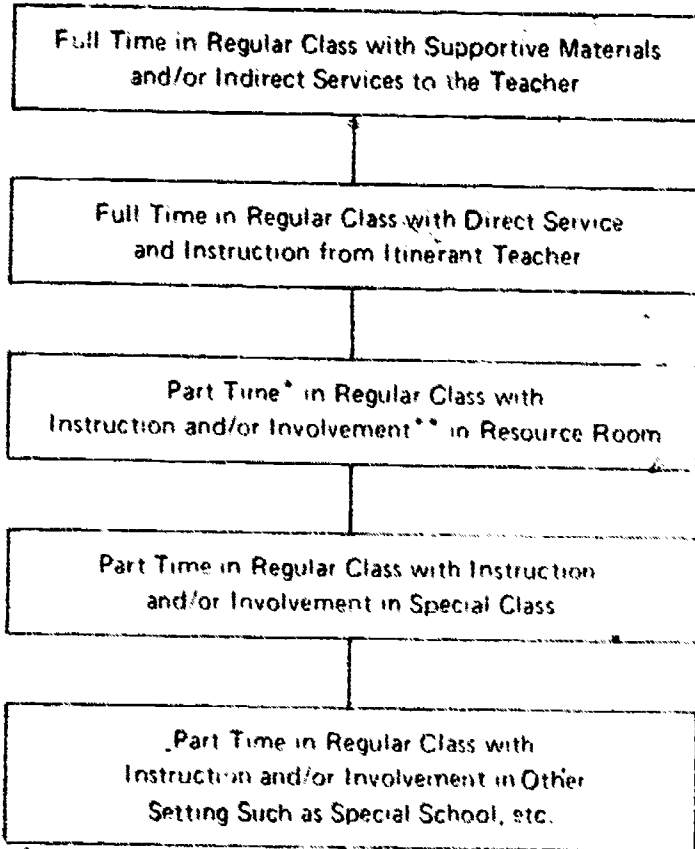
These forms were designed to provide the LEA with direct assistance in assessing the availability of placement options for all handicapped children within each of the primary placement settings. The forms will also assist the LEA in determining the flexibility and placement options within other facilities (public and private) where they have placed their students. For example, if a private residential facility does not have a series of placement options operating within its program that reflect a continuum consistent with the LRE doctrine, then the LEA should be very cautious in placing students in that program. The underlying assumption here is that, without placement options within a particular primary setting, it is predetermined that the child will stay at the level of functioning which was a justification for original placement. It therefore precludes the opportunity for modification of placement settings which reflect growth and maturation by the child.

Please refer to form A through I for the placement options within each of the primary settings.

FORM A

PRIMARY ASSIGNMENT

REGULAR CLASS



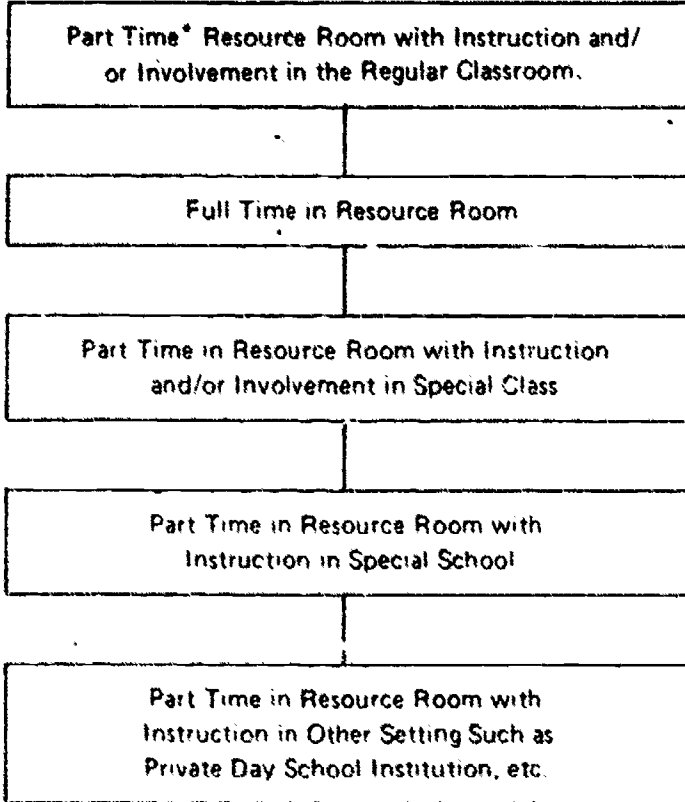
*Part time setting would still be considered the primary assignment of the child if most of the child's time is spent in that setting

**Instruction refers to academic related activities; involvement refers to nonacademic/extracurricular activities

FORM B

PRIMARY ASSIGNMENT

RESOURCE ROOM



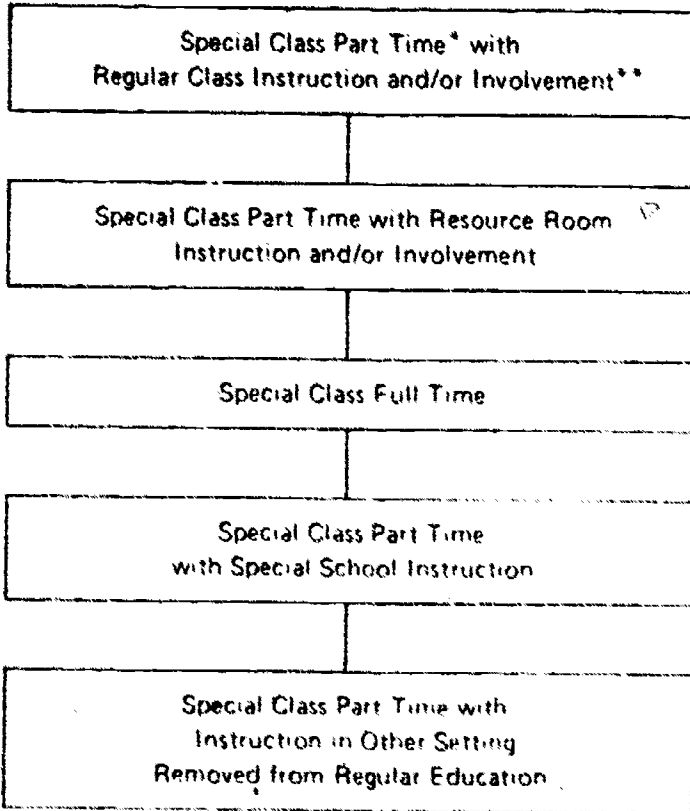
*Part time setting would still be considered the primary assignment of the child if most of the child's time is spent in that setting.

**Instruction refers to academic related activities, involvement refers to nonacademic extracurricular activities.

FORM C

PRIMARY ASSIGNMENT

SPECIAL CLASS



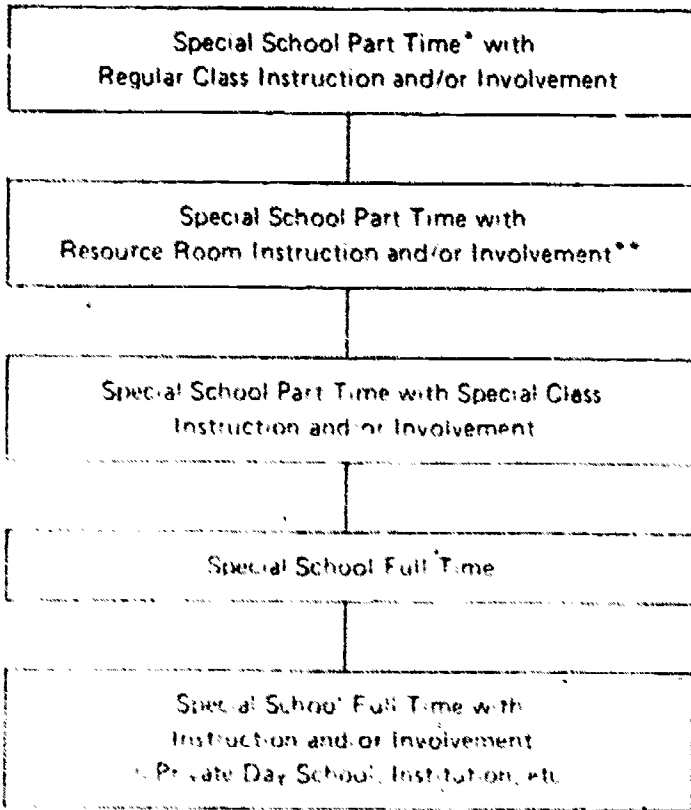
*Part time setting would still be considered the primary assignment of the child if most of the child's time is spent in that setting

**Instruction refers to academic related activities, involvement refers to nonacademic/extracurricular activities.

FORM D

PRIMARY ASSIGNMENT

SPECIAL SCHOOL
(PUBLIC DAY SCHOOL)



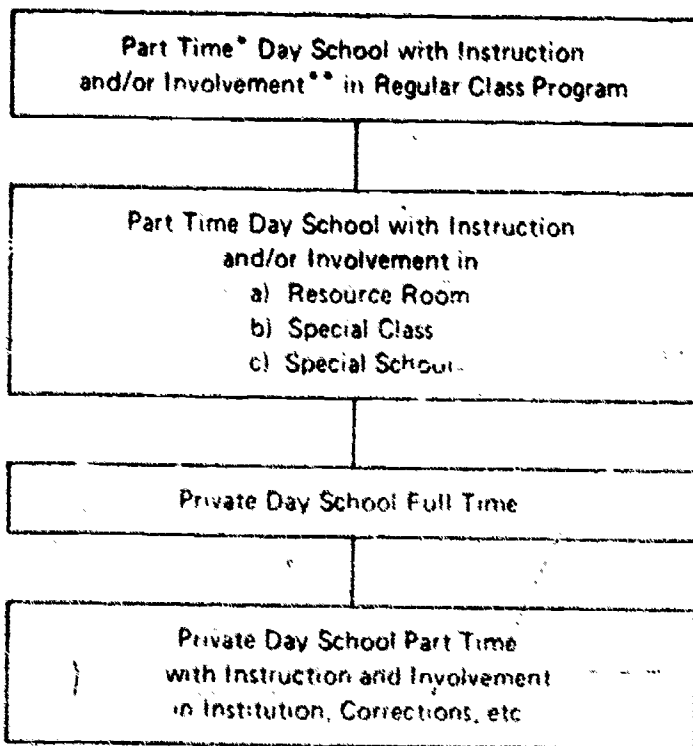
*Part time setting would still be considered the primary assignment of the child if most of the child's time is spent in that setting.

**Instruction refers to academic related activities; involvement refers to nonacademic extracurricular activities.

FORM E

PRIMARY ASSIGNMENT

PRIVATE DAY SCHOOL



*Part-time setting would still be considered the primary assignment of the child if most of the child's time is spent in that setting.

**Instruction refers to academic related activities, involvement refers to nonacademic/extracurricular activities.

FORM F

PRIMARY ASSIGNMENT

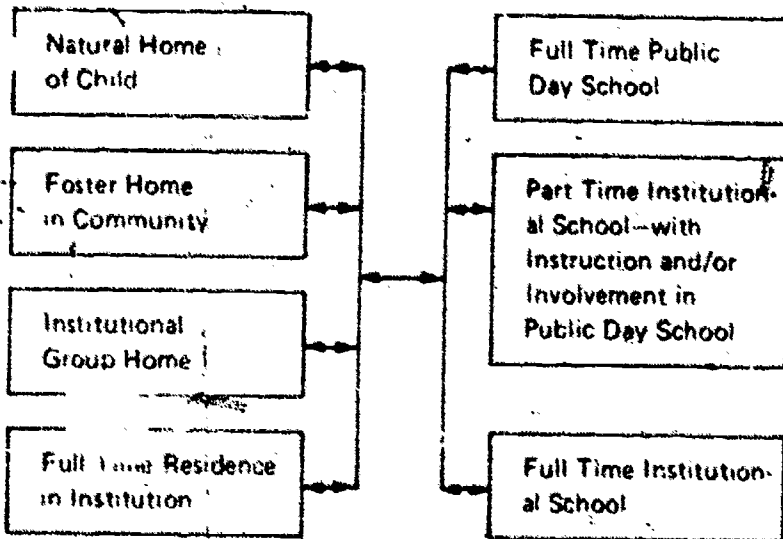
PUBLIC/PRIVATE INSTITUTION

An institutional assignment has to consider the residency of the handicapped child as well as the degree of educational instruction and involvement. Therefore, the specific continuum of services and the nature of those services will vary greatly depending on the kind of institutional setting under consideration.

For example, the specifics of a continuum of placement options for an institution for the mentally retarded, deaf-blind or emotionally disturbed will be very different. However, the options listed below and the availability of these options should be found in all program options of every institution.

RESIDENTIAL CONTINUUM

EDUCATIONAL CONTINUUM

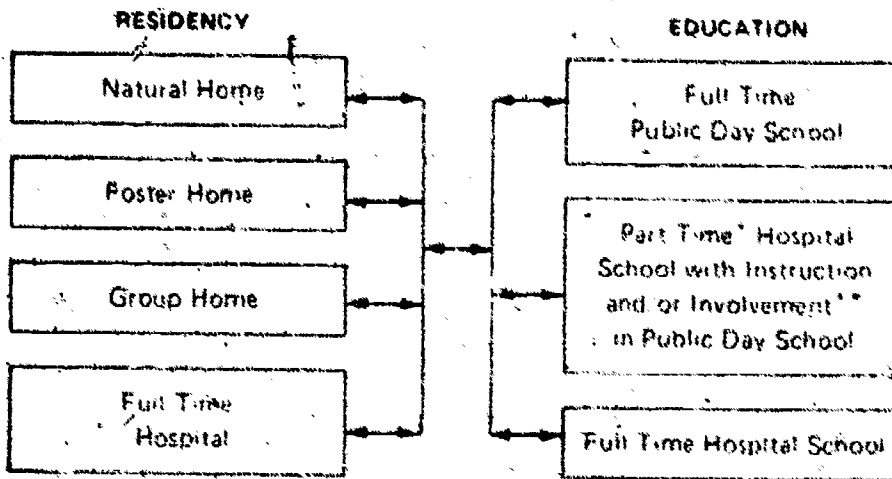


FORM G

PRIMARY ASSIGNMENT

HOSPITAL

As with the institutional placement, much variation will be found within the hospital continuum of placement options. The nature and cause of the placement will determine the specific alternatives provided to each handicapped child. However, each hospital program should develop placement options (where appropriate) to insure that all handicapped children are provided services in the Least Restrictive Setting.



*Part time setting would still be considered the primary assignment of the child if most of the child's time is spent in that setting.

**Instruction refers to academic related activities; involvement refers to nonacademic/extracurricular activities.

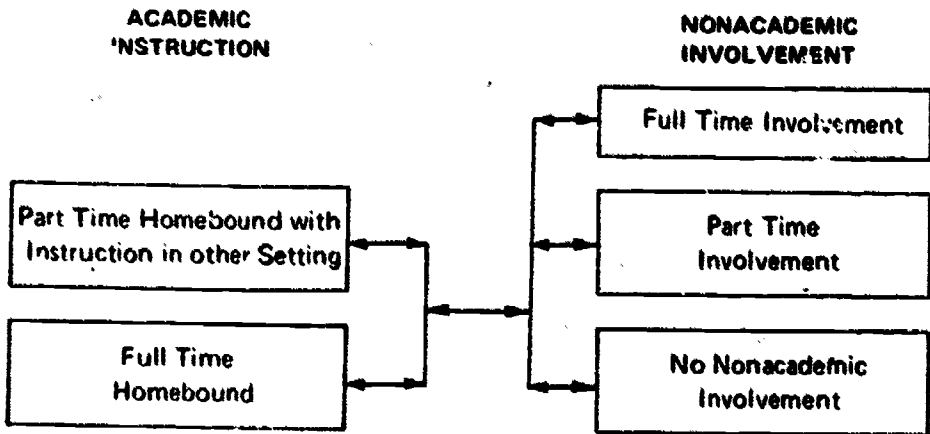
NOTE: To date, the writer has not observed a hospital program. Therefore, this model represents much conjecture.

FORM H

PRIMARY ASSIGNMENT

HOMEBOUND

The involvement of the handicapped child in the mainstreaming of education will depend on the nature and severity of the handicapping condition and the LEA's reason for homebound instruction. However, consideration should be given to program options to insure that as the child develops, less restrictive settings are available to him/her. A specific program of options will vary with the unique needs of each homebound child. The following general options should be available for each child.



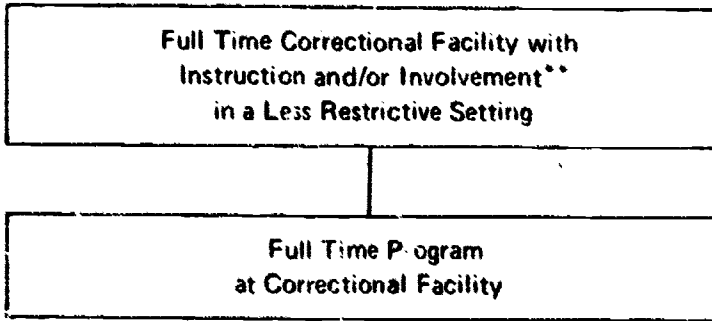
FORM I

PRIMARY ASSIGNMENT

CORRECTIONS

The nature of a correction facility will determine the range of options that are available for any placed handicapped student. However, each LEA should insure that all handicapped residents of a correctional facility are identified, evaluated and provided the most appropriate services in the Least Restrictive Setting. This can be done by having the services brought to the child or the child brought to the services.

An example of this is a nearby LEA which currently has students from a correctional facility attending its day classes. Therefore, each LEA should insure (where appropriate) that each correctional facility will provide placement options for their students. An example of this could be:



**Instruction refers to academic related activities; involvement refers to non-academic/extracurricular activities.

2. DISTANCE FROM REGULAR EDUCATION PROGRAM

Section 121a.227 (b), (1), (2)

Section 121a.550 (2)

a) *Rationale:* The following Sections 121a.550 (2) and, 121a.227 (b), (1) (2), state that all handicapped children should be educated in the regular education classes to the extent appropriate to their ability. Therefore, it is recommended that a form be designed to enable the LEA to assess the extent to which the handicapped children under their jurisdiction are receiving services and programs in the regular education class setting.

This form will provide each LEA with the general distribution of the handicapped population. The case of each handicapped child should be reviewed annually to determine if a placement closer to the regular education environment may be provided, assuming that it would be most appropriate for for the child's abilities and skills. (Please refer to form entitled *Distance from Regular Education Program.*)

DISTANCE FROM REGULAR EDUCATION PROGRAM

Date _____

Unit Name _____

Instructions: Please complete the following form on all handicapped children from your LEA indicating the primary location of their assignment as indicated in their IEP.

	REGULAR CLASS			RESOURCE ROOM			SPECIAL CLASS			SPECIAL SCHOOL			PRIVATE DAY SCHOOL		
Disability/Age	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21
1) Deaf															
2) Deaf Blind															
3) Hard of Hearing															
4) Mentally Retarded															
5) Multi Handicapped															
6) Orthopedically Impaired															
7) Other Health Impaired															
8) Seriously Emotionally Disturbed															
9) Specific Learning Disability															
10) Speech Impaired															
11) Visually Handicapped															

DISTANCE FROM REGULAR EDUCATION PROGRAM

Date _____

Unit Name _____

Instructions: Please complete the following form on all handicapped children from your LEA indicating the primary location of their assignment as indicated in their IEP.

	PUBLIC/PRIVATE INSTITUTIONS			HOSPITAL			HOMEBOUND			CORRECTIONAL FACILITY			
Disability/Age	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21	
1) Deaf													
2) Deaf Blind													
3) Hard of Hearing													
4) Mentally Retarded													
5) Multi Handicapped													
6) Orthopedically Impaired													
7) Other Health Impaired													
8) Seriously Emotionally Disturbed													
9) Specific Learning Disability													
10) Speech Impaired													
11) Visually Handicapped													

3. IEP MODIFICATION FOR LRE STATEMENT: ACADEMIC AND NONACADEMIC INVOLVEMENT

Section 121a.346 (c)

Section 121a.306 (a), (b)

Section 504 – 1973 Rehabilitation Act

Section 121a.553

a) *Rationale:* Section 121a.346 (c) requires that the IEP contain a statement of the extent in which each handicapped child will participate in regular education programs. Also, Section 121a.306 (a) (b) and Section 504 of the 1973 Rehabilitation Act requests that all handicapped children be afforded the opportunity to participate in nonacademic and extracurricular programs to the same extent that nonhandicapped children do. Therefore, it is recommended that two forms be included at all IEP proceedings.

The first form would enable the IEP team to document their consideration of all academic and nonacademic programs that are potentially available to the handicapped child and the extent to which the particular handicapped child will participate in each of those activities. (See the form entitled, "IEP Modification for LRE Statement: Academic and Nonacademic Involvement.")

The second form is designed to provide each LEA with a general idea of the time that each handicapped child within each disability spends in regular education programs. Since, Section 121a.306 and Section 504 requires that handicapped children be afforded the same opportunities to participate as nonhandicapped children in terms of extracurricular and nonacademic activities, this form would generate the appropriate data to enable an LEA to evaluate it's commitment to this aspect of the LRE doctrine. (See the form entitled, "LEA/LRE Statement in IEP: Extent of Handicapped Students Involvement in Regular Education Programs.")

**b) IEP MODIFICATION FOR LRE STATEMENT:
ACADEMIC AND NONACADEMIC INVOLVEMENT**

Please indicate the extent to which the handicapped child will be able to participate in regular education programs and will be able to participate in nonacademic and extracurricular activities.

Please indicate the extent of time the child participates or the extent to which the child is afforded the opportunity. Please indicate in times of min/hours.

NONACADEMIC/ EXTRACURRICULAR	Partici- pation	Availa- bility	Not Available	Not Applicable
Counseling Services				
Meals				
Athletics				
Assemblies				
Transportation				
Health Services				
Recreation Activities				
Special Interest Group				
Special Interest Club				
Other				
ACADEMIC PROGRAM				
English				
Arithmetic				
Language				
P. E.				
History				
Home Economics				
Shop Type _____				
Social Studies				
Other				

**c) LEA/LRE STATEMENT IN IEP-EXTENT OF
HANDICAPPED CHILD'S INVOLVEMENT
IN REGULAR EDUCATION PROGRAM**

How many IEP's state the extent to which the handicapped child will participate in the regular education programs? (Please record in percentage of total IEP's.)

1. Academic Programs _____

2. Non-Academic Programs _____

Note Please Record All Time in Terms of Min/Hour of Involvement

DISABILITY	Total Extent for All Handicapped		Average Time for All Handicapped		Longest Extent Indicated Handi- capped Involved		Shortest Extent Indicated Handi- capped Involved	
	academic	non academic	academic	non academic	academic	non academic	academic	non academic
Deaf								
Deaf Blind								
Hard of Hearing								
Mentally Retarded								
Mild								
Moderate								
S/P								
Multi Handicapped								
Orthopedically								
Other Health Impaired								
Seriously Emotionally Disturbed								
Speech Impaired								
Specific LD								
Visually Handicapped								

4. DISTRICT SERVICE BY SEA

Section 121a.360

A state educational agency may provide direct service to handicapped children under a variety of situations. As Section 121a.360, (5), indicates, an LEA with one or more handicapped children, who can best be served by a regional or state center designed to meet the needs of those children, should send those children to those services. However, in all such cases the programs and services provided by the SEA must be consistent in terms of the nature and location with the LRE provisions of the Public Law and the Regulations.

In order to insure that the SEA and LEA are consistent with the LRE doctrine, it is recommended that they provide a statement to the fact that there are no other facilities, programs, or services nearer a child's home that can provide the appropriate service that the child requires. This statement should be placed in the child's IEP and signed by his parents. Also the facility or program in which the child is placed and assigned has, as part of its ongoing program, a series of placement alternatives. These program options insure that as the child improves, he will be (to the extent appropriate) integrated back into a more community based program.

The need for greater interface between state programs and the community can be seen in the case of mildly impaired children placed in the State School. Many of these children come from low incidence areas where programs or services are not readily available. Instead of providing the necessary services at the State School and then placing the children in LEA programs, the children are kept at the institution on a full time basis. The State School could adopt the role residence (home) for the child and enroll him/her in the LEA schools for the majority of the day. However, this would necessitate a greater level of commitment and communication between the LEA and the State School in relation to the LRE doctrine than currently exists. Therefore, it is recommended that the State Schools and the LEA's examine the LRE component of the programs for all children under their joint jurisdiction.

5. INSERVICE TRAINING ON THE LRE DOCTRINE

Section 121a-382

Section 121a-555

a) *Rationale:* There are several factors relating to the LRE component that must be adequately understood by all parties concerned in placement decisions. Without a common understanding of the doctrine, much discrepancy will exist

in the implementation of the concept. The following four points represent some of the major issues that must be addressed.

The first point that must be understood by the placement team deals with the phrase, "maximum extent appropriate." Since the handicapped child should be educated with the nonhandicapped child to the maximum extent appropriate, the terms should be clearly defined. An operational definition of this term should be developed and documented by each LEA to assist the placement teams in determining the adequate and appropriate setting for each child.

The next point concerns the amount of time the child is removed from regular education. The handicapped child should be removed from the nonhandicapped child only when the nature and severity of the handicapping condition precludes satisfactory placement in the regular class. At what point will the nature and severity of a handicapped child's condition be considered extensive enough to remove that child from the regular classroom setting? It would seem that this point involves not only looking at the nature and severity of the child's handicapping condition, but also the services and programs available to address those conditions. An LEA with limited services, programs, and staff will have to define more handicapping conditions as being too severe in nature to be found in the regular class. This would not necessarily be due to the handicapped child's condition as much as the LEA's inability to provide appropriate supportive services to the handicapped child. It will be of interest to examine the nature of handicapping conditions and the location of these children in terms of placement alternatives from one LEA to the next. It is quite possible that discrepancies in placement locations of the same level of handicapping conditions will occur across LEAs. It is conceivable that the same handicapped child could be placed in several different settings depending upon what array of services an LEA has available.

The third point addresses the need for an extensive program of ongoing support activities. Provisions must be made for supplementary services (such as aids, special class teacher contact, time off) to be provided in conjunction with regular class placement. The nature and scope of these provisions should be clearly outlined by each LEA so that the decisions to place or not to place in the regular class can be adequately determined by the placement team. Again, the concern here is the discrepancy between LEAs in that some LEAs will have an extensive supplementary service for providing assistance to all handicapped children placed in a regular class setting whereas, other LEAs will have a minimum set of support services and, as such, preclude the placement of handicapped children who would be able to function adequately in the regular class.

The last point has to do with the child receiving services in his/her nearest community school. The placement of the handicapped child should be as close

to his/her home as possible. The decision that must be reached by the LEA and the placement team is at what point should changes in the location of programs and services be made to satisfy this component of the law? What criteria will be used to evaluate the level of implementation of the LRE concept? When would an LEA be required to relocate a program to provide services closer to a child's home? When does the distance factor override the program factors to necessitate the relocation?

In order to address these and other questions relating to the implementation of the LRE component, an extensive inservice training program has to be developed by the SEA/LEA. As one indication of the SEA/LEA's commitment to the LRE doctrine, the amount of inservice in this area should be documented.

b) *Assessment of SEA/LEA Inservice:* The following represents a series of suggested questions that the SEA/LEA should employ to assess the extent of inservice in relation to the LRE:

- 1) Has the SEA/LEA collected information on the number of trained professionals required to satisfy the need for programs and services so that all handicapped children can be served in the LRE closest to their homes?
- 2) How many LEAs have provided inservice for their staff on the problems and concerns of the LRE doctrine? If the LEA has provided inservice in relation to the LRE doctrine, is there any documentation to indicate that the inservice session was fully evaluated and the participants achieved the stated objectives and goals of the training session? Please list a few of the evaluation instruments utilized during the inservice sessions. (121a.382 (7))

- a)
- b)
- c)
- d)

- 3) Can best practices in evaluation and inservice training be identified and disseminated through the state to insure that the highest quality of inservice training and evaluation have occurred?
- 4) How were inservice needs determined by the SEA and the LEA in relation to the LRE doctrine? (121a.382 (1), (2))
- 5) Which groups within the SEA/LEA were identified for inservice training in relation to the LRE doctrine? (Be sure to include the staff from private and public institutions, hospitals, and correctional programs.)
- 6) Describe the content and nature of the inservice training sessions.
- 7) What geographic regions were covered during the inservice sessions on LRE (such as statewide, regional or local)?
- 8) How and where will the training sessions be staffed (e.g., LEA, university, or SEA personnel)?
- 9) How will each of the inservice programs be funded?

- 10) What are the time frames involved in providing inservice training to meet the SEA/LEA needs?
- 11) How is the LRE doctrine in relation to personnel development monitored within the SEA/LEA (121a.380, 387 (c))?
- 12) Do institutions of higher learning provide workshops and inservice for the LRE doctrine? If so, does the SEA/LEA have any input on the content and the evaluation of these programs?

c) *Recommendations:* In order to facilitate the inservice program, the following suggestions are provided:

- 1) *Cooperative Agreement:* Both the SEA and the LEA inservice training models should include cooperative agreements between the local training institutions, i.e., colleges and universities. By enlisting the services of teacher-training institutions, the exchange of ideas, needs, and priorities can be pursued. This will insure that appropriate modifications in teacher-training institution programs are employed to address the changing and dynamic needs of the field of education in relation to the service of programs for the handicapped child. This would be especially the case in relation to the LRE doctrine of Public Law 94-142. All teacher-training institutions within a state should document what they are doing to insure that all pre-service students in the area of education are being properly and adequately exposed to the LRE concept and other components of Public Law 94-142.
- 2) *Workshop Incentives:* All workshops and inservice training provided by an SEA/LEA should provide some incentive for staff members to attend within the district. A tentative list of incentives to be used to insure participation are a) release time, b) payment for participation, c) academic credit, d) salary step credit or increase, e) certification renewal, f) updating of professional skills. These incentives should be made contingent upon the staff member successfully completing a criterion referenced test on the workshop or inservice topics with at least eighty to ninety percent success. Without some means of evaluating the effectiveness of a workshop, mere participation versus involvement could never be detected.
- 3) *Yearly Comprehensive Assessment:* A simple means for assessing the needs and changes occurring in the field regarding the LRE doctrine would be an annual survey within each LEA. A yearly examination and survey of all individuals involved in the placement of handicapped children should be undertaken to insure that each member is aware of the number, scope, and nature of the placement options available in the LEA (121a.533(3)). For example, working knowledge should be available for all members regarding options: a) within the LEA regular class to the self-contained school, b) the private day school's programs and services, c) public and private residential schools, d) hospital programs, e) homebound programs and, f) correctional facilities. This yearly assessment of these decision-making personnel would insure that they are thoroughly knowledgeable about the placement options

available for any and all handicapped children under their jurisdiction. This evaluation can take the form of a simple survey asking them to describe areas, and placement settings along the LRE continuum offered by the school district ranging from the least to most restrictive setting.

- 4) *Survey Sample:* When there is a need for a general survey in an LEA, the survey should include a sample consisting of the various administrative levels within the district. This would insure that each level of operation providing services directly or indirectly to the handicapped child would be adequately assessed. By surveying the staff at the district level, as well as building principals, regular class teachers, and special class teachers etc., one would be able to determine the degree and the scope of possible discrepancies in knowledge, attitude, implementation and the information base in relation to the topic of a survey. Once these discrepancies were identified, the LEA could then set about rectifying any errors, misconceptions or distortions that may currently exist, causing potential problems in achieving the highest level of implementation possible.
- 5) *Sleepage:* The law requires that the SEA/LEA document their attempts to provide appropriate personnel preparation in relation to the components of the Public Law. The law also requires an assessment of those personnel preparation programs to be undertaken. There is a need to have both the SEA and the LEA develop an appropriate independent evaluation of personnel training procedures and progress. It does little good for an SEA/LEA to have spent time, money, personnel and resources on workshops and inservice training and then to have most of the information slide by as a result of "sleepage" on the part of the staff. By "sleepage" it is meant a lack of interest, attention, and receptability on the part of the staff in terms of inservice training, agenda, and topics.

It is recommended that each district develop some type of criterion reference test that would cover the components of each workshop and inservice training session. For example, most LEA's have some sort of incentive to encourage attendance and participation at appropriate workshop and inservice sessions. The incentives may range from credits in terms of course work, time off from assigned tasks, and duties to a stipend or some other means of assuring adequate staff attendance. If a staff member were to attend the workshop on the LRE and then could not achieve a 90% accuracy on a simple evaluation form that covered the topics of the workshop, one would wonder if that individual should receive any credit for his/her attendance. A district could possibly make various incentives, such as promotions and pay raises, contingent upon completion of a number of successful workshops attended each year. The individual would receive attendance credit only if he or she achieved a 90% accuracy on the evaluation questionnaire based on the workshop topics.

This recommendation is generated also by the present writer's experience in recent workshops designed to cover various components of Public Law 94-142.

Many district personnel attending the workshop felt that it was not necessary and an inconvenience on their part, even though they had been given time off from school for the entire day to attend. Although the general response evaluating the workshops was very favorable and positive, many staff members were observed not attending, day dreaming, and even sleeping during classes. Whether or not the workshop was of value to these staff members is highly questionable.

Thus, some procedure should be undertaken to assure that an LEA can assess the extent to which its efforts to provide adequate and appropriate inservice training for their staff is being realized. It is therefore recommended that the SEA endorse a formal evaluation of the workshop by the LEA to insure that at a ninety percent comprehension level and a complete understanding of the material among professional staff has occurred as a result of the workshop.

6. PARENTAL CONSENT AND THE LRE

Section 121a.500-514

Section 121a.382 (f), (3)

a)Parental Knowledge of the LRE: To insure that there is an effective parental input and knowledge base in relation to the LRE doctrine and the decision making process in terms of placement for handicapped children, a district should implement steps to insure that the parents are adequately informed. The parents must be knowledgeable of their rights in relation to the letter of the law regarding the LRE doctrine, as well as, the intent or the spirit of the law. The parent must be informed about the range of alternative placements found in the LEA so as to insure that his or her handicapped child is placed in the most appropriate setting. Data can be generated to indicate the LEA's efforts to inform parents. Suggested data points could include:

- 1) name and number of any and all parent advocacy groups for the handicapped child who are actively involved in the LEA programs and services,
- 2) documentation of all such steps undertaken by the LEA to inform the parents of program alternatives in relation to the LRE doctrine (such as PTA meetings),
- 3) a list of publications, newspaper articles, and other printed materials available to the public, in general, and the parents, in particular, regarding the LRE doctrine.

As the above information is documented, the district should regularly assess the level and quality of information that the parents have in relation to the LRE doctrine.

b) **Surrogate Parent:** Since the surrogate parent (Section 121a.514, (e), (1)) will represent the child in all matters relating to identification, evaluation, and educational placement of the child, it is imperative that this individual be competent enough to adequately represent the child. If surrogate parents are provided for handicapped children and are not knowledgeable of key components of the law (in particular the LRE doctrine), their ability to insure that the handicapped child is placed in the least restrictive setting will be greatly hindered. It would seem necessary that the LEA insure that each and every individual involved in the LRE process have a thorough knowledge and understanding of the doctrine if the doctrine and the intent of the law are ever to be fully satisfied.

Assuming all the other requirements for the selection of the surrogate parent had been met, it would seem appropriate to periodically examine the surrogate parent in relation to the LRE doctrine. This evaluation of their knowledge and understanding of the LRE doctrine and level of implementation within the LEA will insure that they represent the handicapped child in a fair and appropriate manner.

There should be a form that states that a parent (surrogate) is both aware and understands the responsibility of the LEA in relation to the LRE doctrine. This form would help to insure that the LEA would develop appropriate justification and rationales for all programs, services, and placement settings for all handicapped within its jurisdiction.

c) **Parental Awareness Form:** Section 121a.382 (f) (3)

Instructions:

Please be sure that you are able to answer each question clearly. If not, please see the representative in the LEA.

- 1) What rationale is provided by the LEA for the removal of your child from the regular education setting?
- 2) Is the placement of your child determined at least annually? If not why?
- 3) Was your child placed in a particular setting and evaluated to insure that it was "appropriate"? If so, how was the evaluation completed? If not, why not?
- 4) Is your child's placement and programs provided in the nearest community school? If not, why not?
- 5) Are the placement alternatives that were considered for your child's placement documented for your review?

- 6) Does the LEA have a general model of the placement alternatives available across the LRE continuum?
- 7) Does the LEA have an agreement for active monitoring and evaluation of all children placed outside the LEA? If so, have you examined it in relation to your child?
- 8) Are programs and services provided your child in settings closest to the regular education environment possible? If so, how is that determined? If not, why not?
- 9) Does your child participate in any nonacademic and/or extracurricular activities with the LEA? If not, why not? If so, how extensive?
- 10) Did you actively participate in the placement decision for your child?
- 11) Who are the teacher(s) working with your child?

7. PLACEMENT PROCEDURES

Section 121a.533 (a), (1), (2)

a) *Appropriate LRE Placement:* Two forms are presented below to assist the placement team in their efforts to adequately assess the handicapped child. The proposed forms not only serve to assist in the initial placement decision, but can be used to determine the ongoing appropriateness of the placement (see *Qualitative Aspects of Placement Procedures*). These forms can be expanded through field testing to include specific questions related to only certain disabilities, as well as, more general questions to address the entire handicapping spectrum. The present writer had considered a weighted approach of the items on the checklist, but felt that the uniqueness of each child and placement options would preclude a weighted approach at this time.

The first form was developed by Nix (1978) and consisted of an extensive checklist of child and environmental parameters that a placement team should consider. Although Nix was writing for the hearing-impaired child, the same basic questions can be employed with all handicapping conditions. (Please see: *Appropriate Placement Checklist for the Handicapped Child Form*).

The second form consists of a more specific behavioral checklist that was developed by Von Seggern (1977). It will assist placement teams in exploring the range and nature of behaviors of a handicapped child. (Please see: *Behavior Checklist For Determining Appropriateness of Placement Form*).

b) Appropriate LRE Placement Checklist For The Handicapped Child Form:

This check sheet has been compiled from various sources and is intended to be a guide in examining the major parameters which contribute to a successful LRE placement. Some of the parameters are critical and must essentially be high or a successful placement will not be achieved. The assets and deficits identified by using the list will provide the placement team with additional input for consideration in arriving at the placement decision appropriate to the child's needs.

1) Child Parameters:

- ☐ Average or better learning rate
- ☐ Able to comprehend oral directions
- ☐ Able to read and follow written directions
- ☐ Capacity to work independently
- ☐ Willingness to ask questions for clarification
- ☐ Capable of following large group discussions
- ☐ Cooperative in completing small homework assignments
- ☐ Age minimally disparate from hearing peers
- ☐ Linguistic age comparable to placement considered
- ☐ Social development comparable to the placement considered
- ☐ Emotional development comparable to placement considered
- ☐ Physical development within a normal range for the placement considered
- ☐ Reading level comparable to the children in placement
- ☐ Academic skills within one grade level of the considered placement
- ☐ Average or better in intelligence
- ☐ Appropriate amplification
- ☐ Average or better in self-control
- ☐ Ability to adapt to new situational demands, schedule changes, etc.
- ☐ Academic competitiveness
- ☐ Relates well to adults
- ☐ Relates well to peers
- ☐ Wants to be mainstreamed
- ☐ Average ability to handle abstract concepts
- ☐ Sufficient speech intelligibility to be understood by peers
- ☐ Sufficient speech intelligibility to be understood by regular class teacher
- ☐ Ability to receptively decode speech
- ☐ Writes legibly

2) Placement Situation Parameters:

- ☐ Size of the receiving class
- ☐ Desire of the regular class teacher to have the child
- ☐ Location of the classroom (next to the distraction)
- ☐ Individualized programing in the receiving classroom

- _____ Small reading groups
- _____ Teaching style(s) of the regular class teacher(s)
- _____ Availability of a special education teacher to monitor the placement
- _____ Orientation to child's special needs available to regular class and teacher
- _____ Supportive administration
- _____ Teacher aide available for assistance
- _____ Availability of varied resource specialists — speech pathologist, audiologist, etc.
- _____ Preferential seating possible
- _____ Regular class teacher willing to use modified materials for child
- _____ Regular class teacher adapts listening posts, etc. so the same information is presented orally to the hearing-impaired child
- _____ Regular class teacher willing to work closely with parents of the child and the various support and resource specialists
- _____ Can the child get an equal or better education in this class than in the other possible placement alternatives

3) *Family Parameters:*

- _____ Stable home environment
- _____ Parents' desire to have the child mainstreamed
- _____ Parents' desire to assist the child with homework
- _____ Parents' acceptance of the child's disability
- _____ Parents have enrolled in parent education or are willing to do so
- _____ Parents' desire to work closely with the regular class teacher

c) *Behavior Checklist for Determining Appropriateness of Placement Form:*

Name of Student _____ Date _____

- _____ 1. Quarrelsome, loses temper, fights
- _____ 2. Domineering talk
- _____ 3. Resentment of authority
- _____ 4. Bullies younger children
- _____ 5. Bragging
- _____ 6. Pushing, hitting, slapping
- _____ 7. Destructive tendencies
- _____ 8. Quick movements
- _____ 9. Showing of extreme cruelty to animals
- _____ 10. Disrupts class
- _____ 11. Wants his own way
- _____ 12. Sassy
- _____ 13. Lies and/or steals
- _____ 14. Timid
- _____ 15. Hesitant in trying new ideas

- _____ 16. Rarely fights back
- _____ 17. Hardly ever disagrees with group opinion
- _____ 18. Easily frightened
- _____ 19. Cries easily and whines
- _____ 20. Sometimes referred to by others as a sissy
- _____ 21. Used as a scapegoat by other children
- _____ 22. Has a few real companions
- _____ 23. Teachers may hardly recognize he is in the room
- _____ 24. Shuns contact with other children
- _____ 25. Isn't chosen by the group as a member of committees and teams
- _____ 26. Walks to and from school alone
- _____ 27. Would rather stay inside than go out and play at recess
- _____ 28. Tires easily
- _____ 29. Too quiet or good
- _____ 30. Shy or timid
- _____ 31. Will find things to do to avoid being with the group
- _____ 32. May spend time perfecting a skill
- _____ 33. May prefer to associate with adults
- _____ 34. Is sullen, unhappy or worried
- _____ 35. Poor self concept
- _____ 36. Is easily hurt or discouraged
- _____ 37. Refuses to do as asked
- _____ 38. Denies obvious truths
- _____ 39. Short attention span
- _____ 40. Lack of tolerance for tasks not enjoyed
- _____ 41. Cannot wait or take turns
- _____ 42. Demands immediate rewards or help
- _____ 43. Leaves group or class (walks out, "sick")
- _____ 44. Low frustration tolerance (gives up easily)
- _____ 45. Does not work with group
- _____ 46. Over-conforms to rules
- _____ 47. Seeks attention excessively
- _____ 48. Cannot work alone
- _____ 49. Easily confused or disoriented
- _____ 50. Forgetful, needs constant reminders
- _____ 51. Overly sensitive to criticism
- _____ 52. Shows signs of anxiety (crying, nail biting)
- _____ 53. Puts blame for behavior on external causes
- _____ 54. Hurries through work
- _____ 55. Works too slowly
- _____ 56. Cannot follow simple directions
- _____ 57. Easily distracted from work
- _____ 58. Difficulty changing activities
- _____ 59. Relationships with other children are a frequent problem
- _____ 60. Relationships with adults are a frequent problem

Behaviors exhibited most frequently

- | | |
|----------------------------|---|
| _____ morning | _____ mid-day |
| _____ afternoon | _____ before a class change |
| _____ after a class change | _____ (to playground, lunch, class, etc.) |
| _____ in a large group | _____ before a specific subject |
| _____ in a small group | _____ with the teacher(s) _____ |
| _____ with peers | |

8. CLOSEST COMMUNITY SCHOOL

Section 121a.552 (a), (3), (c)

a) *Rationale:* One component of the LRE doctrine is that all children should be receiving services in programs found in the nearest school to their home. Section 121a.552 (a), (3), (c) states that, unless the handicapped child's IEP requires some other arrangement, the child should be educated in a school which he or she would normally attend if not handicapped. "Normally" refers to the existing legally approved method for assigning children to their respective schools. Therefore, a form is needed to document the number of children receiving programs outside the boundaries of their most immediate school. The school should report this information by disability and age breakout.

The form suggested here was designed to enable the LEA to assess the extent to which the handicapped children under its jurisdiction are receiving those special services and programs in the setting nearest their community school. No judgment is made as to the appropriateness of the placement or whether the placement is more or less restrictive for the child. However, it is recommended that a systematic examination of all handicapped children, not found in the nearest community school, be undertaken. This assessment should determine if modifications in existing programs, staff, services, etc. can be made to facilitate steps towards the intent of the LRE doctrine which is the education of all handicapped children in the nearest community school. It is also suggested that the LEA provide a rationale as to why programs and services are not provided for these children in a more convenient setting closer to their home.

The information generated from these individual assessments of the location of services and programs for the handicapped can be used for future planning of resources and programs to insure that all handicapped children are educated in a setting as close to their home as possible. (Please refer to the form entitled *Nearest Location Form.*)

b) NEAREST LOCATION FORM

Date _____

Unit Name _____

INSTRUCTIONS: Please complete the following form on all handicapped children from your LEA to determine the basic distribution of handicapped children in relation to their programs and services.

No. of Handicapped Children	School/Program Provided at Nearest to Child's Home			School/Program Within Same LEA			School/Program Within Next LEA			Same State			Out of State			Other		
	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21	3-5	6-17	18-21
Disability																		
1) Deaf																		
2) Deaf Blind																		
3) Hard of Hearing																		
4) Mentally Retarded																		
5) Multi Handicapped																		
6) Orthopedically Impaired																		
7) Other Health Impaired																		
8) Seriously Emotionally Disturbed																		
9) Specific Learning Disability																		
10) Speech Impaired																		
11) Visually Handicapped																		

c) *Program Location Within An LEA:* Those LEAs that have all handicapped children in special education programs closest to their neighborhood schools would at the same time be satisfying the letter and the spirit of the law because to accomplish such a task would require an extensive effort in the commitment of the LEA. Therefore, another form that may be useful for an LEA would be one which examined the existing programs and services within the school for possible redistribution of efforts to be consistent with nearest location requirements.

The interest in this form was stimulated by the efforts of a local school district which is currently examining their programs and services. They have decided that an existing EMR High School Program with four staff members and 30 students could easily be divided between the two district high schools. This would enable all of the students to attend a school program nearest their home.

This form would also indicate how many placement settings an LEA has available for each program, as well as, the number of students in each setting. It would enable the LEA to determine what alternative settings they may have as well as the number of students in each setting.

1) *Instructions for Program Location Within LEA Form:*

- a) List all the schools in the LEA and all programs and services for handicapped students within each setting.
- b) For each program/service, please record the number of handicapped students by disability being served.
- c) How many of those handicapped students within each setting are *not* attending their nearest community school?
- d) How many program/services at each location can be relocated geographically within the LEA to enable the student to attend a school nearer his/her home? For example, if an elementary school has two EMR classrooms, could one of those programs be relocated in a school closer to a child's home? (Please refer to the form entitled *Program Location Within LEA*).

2) PROGRAM LOCATION FORM

Please complete the following form with the required information

Number of handicapped children by disability not currently attending the nearest community school.

Schools in LEA Programs/Services	Deaf	Deaf Blind	Hard of Hearing	Mentally Retarded	Multi Handicapped	Orthopedically Impaired	Seriously Emotionally Disturbed	Specific Learning Disability	Speech Impaired	Visually Handicapped	COMMENTS: What steps can be taken to insure that all han- capped children are educated in the nearest community school?
School A _____											
Programs											
1											
2											
3											
School B _____											
Programs											
1											
2											
3											

9. QUALITATIVE ASPECTS OF THE LRE PLACEMENT

Section 121a.552 (d)

a) *Complexity of Assessing Placement Procedures:* The complexity of the LRE concept is most apparent in determining the appropriateness of a particular placement for a handicapped child. Although, every placement decision has to consider the appropriateness of the placement in relation to the proximity of the child's nearest community school and the overall involvement of the child's regular education programs, it is most difficult to assess the appropriateness in terms of what is and is not harmful for the child. (See section 121a.552 (d)). What factor or combination of factors determine the appropriateness of a placement setting will vary with each child. An example of the potential complexity can be seen in the following situation.

What procedure would a placement team follow in trying to determine the location of services to an EMR child with the mental age of 7 and the chronological age of 10? Would placing this child in a second grade class for reading be more or less restrictive than placing him in the resource room or a self-contained class for the same reading instruction? The case seems to highlight different interpretations that are possible in determining the least restrictive environment. The placement of a child in a classroom with second graders, even though he is capable of performing the required reading tasks, may be more restrictive due to the psychological factors involved in a 10 year old sitting in classes with seven year olds. However, if the EMR could satisfactorily adjust to such a difference in size and age to the point where his performance in reading would not be hindered, the placement could be considered appropriate. The problem arises in how to determine that a particular placement decision is appropriate for the child.

Implementing this phase of the LRE doctrine is no easy task. However, to insure that an LEA is moving in the proper direction, a proposed model has been developed that will highlight the general procedure to be employed in making and assessing the appropriateness of placements for each handicapped child. A general model for consideration is presented below.

b) *LRE Appropriate Placement Model:* The overall procedure for a placement model should consist of three phases with each phase containing a series of progressive steps for making the placement decision and assessing its appropriateness.

1) PHASE A:

Step 1 – The handicapped child's placement is taken under consideration.

Step 2 – The placement team/IEP team examines all existing evaluation data that was generated about the handicapped child. This evaluation data,

should provide the placement team with appropriate levels of functioning in both the social and academic areas, as well as, any other pertinent area related to the handicapped.

Step 3 – To supplement the evaluation data, the team would then complete a series of check lists outlining in detail the behavior of a child, the environmental perimeters best suited to the child, and so forth. (See Appropriate LRE Checklist Forms Below)

Step 4 – With the evaluation data and the check list completed, the placement team will then begin to match the handicapped child's profile with the appropriate placement options along the LRE continuum.

Step 5 – All placement options that were considered potential settings for the handicapped child will be documented.

Step 6 – A rationale will then be developed justifying the actual placement decision.

Step 7 – An assessment of the potential problems found within the placement setting will then be undertaken by the placement team. The problems such as scheduling, transportation, teacher receptivity, and so forth will be examined.

Step 8 – The LRE placement will be finalized by the placement team.

Once the placement has been determined, the team will then proceed to Phase B of the Placement Procedures.

2) PHASE B: Phase B will consist of the initial assessment and the procedures to be followed to determine the appropriateness of the actual placement determined by the placement team.

Step 1 – The placement team will establish a committee that will serve as a transition/monitoring team of the child's progress in the particular setting where he is receiving services.

Step 2 – The transition/monitoring team will then coordinate all support systems needed to insure that the placement will be successful. The employment of paraprofessionals, the involvement of special education teachers, inservice training needs, the establishment of communication channels, and counseling for the child, teacher, and parents, will be addressed.

Step 3 – The transition/monitoring team will then assess the placement of the handicapped child. The time line for determining placement will vary for each handicapped child. It is recommended that at the end of the first week and at the end of the first month a general assessment of the appropriateness of a placement be undertaken. This assessment should consist of the following areas: teacher reports, behavioral checklists, direct observation of the child, academic progress, social and emotional growth, parental input, and so forth.

Step 4 – Depending on the results of the initial assessment completed by the transition/monitoring team, the placement will be judged as being either adequate or inadequate. If the decision is that the placement is

inadequate, the procedure is then repeated going back to the initial examination of evaluation data. This would necessitate another initial placement team meeting and/or a reevaluation of the child's skills and abilities by the placement team. If the placement was deemed appropriate, then the child would be allowed to continue in that setting with periodic checkups every four weeks.

Step 5 — If the child continues to progress and the assessment team determines that the placement is adequate, then the transition should move into Phase C.

3) PHASE C: Phase C consists of the long term assessment of the child's progress.

Step 1 — This step will consist of a continual and gradual modification of the support program needed to insure the continued success of the handicapped child in his particular setting. It is expected that as a child continues to progress in his placement setting the scope and intensity of the support system will be reduced significantly.

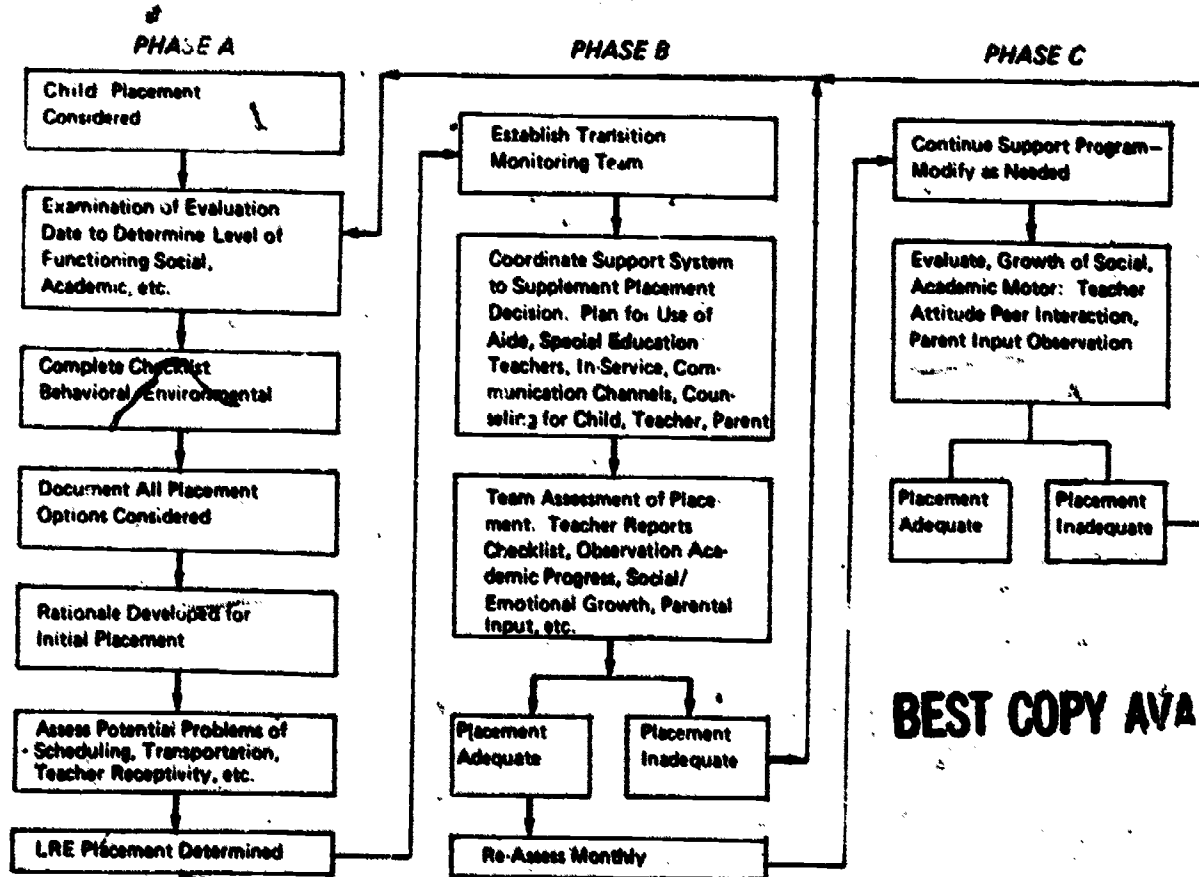
Step 2 — The evaluation of the long term growth of the social, academic, and motor areas of the child is important. It includes examining over time any changes in teacher attitudes, peer interaction, parental input, and direct observation of the child in the particular setting.

Step 3 — This step will consist of an assessment of the long term appropriateness of a particular setting. If the setting is deemed to be appropriate, the child will continue in that setting under the outline of Phase C. However, if the placement appears to be inadequate as a result of improvements and/or changes in the child, then the child will be recycled back to the examination level of Phase A. And the cycle will begin again.

c) Field Testing: Since the above model will represent a general prototype of the process that an LEA should follow in assessing the appropriateness of placement procedures, it is recommended that each LEA actually field test its model to insure that the process is both reliable and valid. It is recommended that each LEA monitor the placement decisions for all handicapped children. This monitoring can be accomplished by a systematic examination of the initial success and failures of handicapped children placed in, what was determined as, the least restrictive environment. A case study approach of selected cases would insure documentation and insights into key factors that may be causing the observed results. It will be a complex task for example, to discriminate between administrative arrangements that are causing failures and the inability of certain children to function adequately in a particular setting due to some condition related to being handicapped. However, time and appropriate documentation will assure a higher, more qualitative, placement procedure for all handicapped children within an LEA. The complexities involved in dealing with individual handicapped children and their unique characteristics, as well as, trying to match their characteristics with a complex LRE continuum and insure that a particular setting is appropriate will be no easy task.

d) LRE APPROPRIATE PLACEMENT

PROPOSED MODEL



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e) *Components of the Model:* Several factors must be operating in order for the proposed model to function effectively. Among these are:

- 1) The regular class teacher's attitudes and expectations towards the LRE doctrine must be positive.
- 2) A meaningful intra- and inter-staff cooperation at the building level must exist.
- 3) Any inhibiting agents within the LRE process must be eliminated.
- 4) The ability to assess the harmful effects of placement on the handicapped child must be accomplished.

1) *Regular Class Teacher Attitudes and Expectations:*

Since the LRE concept most directly involves the relocation of handicapped children from one class or program to another, it is essential that there is good intra and inter-staff cooperation. All parties involved in the delivery of services to a particular handicapped child should be active participants in the decision making process regarding the location and the placement of that child. However, the current state of the art may preclude this from occurring.

A recent survey (Aloia, Minner, Knutson and Von Seggern, 1977) indicated that: a) the general commitment to and the understanding of the LRE concept varies significantly within the LEA and b) many school administrators have failed to provide direction and/or proper incentives to their staff to facilitate movement towards the LRE doctrine. Therefore, any meaningful attempts to provide children with less restrictive settings in both the letter and the spirit of the law should take into account the realities of the political, social, and professional climate within the LEA/school.

The survey also highlighted the position of regular class teachers indicating that a built in inertia exists (i.e., resistance, ignorance, or apathy) which will result in denying a handicapped child a less restrictive placement. That is, if a regular class teacher does not want a handicapped child in his/her class for one of many reasons (e.g., lack of experience with handicapped children, unwillingness to extend possible variations in skill levels, both social and academic, in the classroom, and so forth), then almost by definition, that particular classroom setting, curriculum area, or program would be more restrictive for the handicapped child than a self-contained class where the affect of the staff was more positive. Likewise, the same result would be found if special education staffs were also resistant to changes relating to the LRE concept. (Note: The survey indicated that the special education staff exhibited various forms of resistance, e.g., protection of their territory, maintenance of the status quo, unfamiliarity with new roles as liaisons for regular education, or entrenched in their ways).

These underlying concerns will severely limit the realization of the spirit of the

LRE doctrine. Handicapped children will be denied a less restrictive setting due more to the restrictive nature of the environment rather than the child's ability to excel in that environment. All these factors and others must be addressed in order to insure that a qualitative improvement towards the spirit of the LRE doctrine actually occurs.

a) *Rationale:* One phase of assessing the level of readiness within an LEA and the potential harmful effects on a child is the receptiveness of the regular class teacher. How willing are the regular class teachers to accept handicapped children within their classroom? The greater the qualitative implementation of the LRE doctrine, the greater the regular class teacher's receptivity. A good indication of this would be their initial expectations, both positive and negative, regarding handicapped children being placed in their classroom. It would be useful to obtain an initial indication of the receptivity of the teachers towards a particular handicapped child. For example, if a particular handicapped child could be placed within a regular classroom program and the placement team had three potential classrooms and teachers available, it would be important to have some measure of the teacher's initial attitudes towards this placement.

Other than the personal interview which may be somewhat biased due to the potential social and professional pressures involved, an objective criterion measure would be valuable for several reasons: a) It would distinguish between the teachers who are and are not receptive, in general, towards handicapped children, b) It would distinguish between teachers and their receptivity in relation to a particular handicapped child, and c) It would enable objective feedback to be provided to the staff involved in making the initial placement of the handicapped child.

This writer has developed an instrument to measure the initial expectations of the regular class teachers towards mainstreamed handicapped children (Aloia, 1976). The instrument consists of four subscales that measure: a) the teacher's initial expectations regarding the handicapped child's initial academic potential, behavioral potential in the classroom, as well as, the teacher's ability to work effectively with the handicapped child, and b) the teacher's overall general impression of the child. The instrument would be administered by having a teacher read a small vignette describing a particular child. (Of course, all personally identifiable data would be removed to insure the confidentiality of the child). After reading the vignette, the teacher would then respond to a series of questions regarding the child's academic and behavioral traits. Once the scores were tallied, the staff could then turn to some normative scales to rank the teacher. (The normative scales could be developed from the more than 2000 responses to data of scorers of previous teachers responding to the instrument.) This ranking would give the committee some idea of the positive and negative attitudes and initial expectations of a particular teacher towards a particular child.

The placement team could then use the information as one criterion for determining whether placement with a particular teacher would be appropriate for the handicapped child. The information could also be used to plot changes in teacher attitudes towards the handicapped child overtime. The teacher could be given the test after initially working with the child over a period of a week, two weeks, or a month for possible changes in their attitude towards the child. If the instrument initially proved to have good predictive validity, then it could be: a) used as a means for determining the appropriateness of a particular placement after one, two, or four weeks of a child in that setting, b) given on a district wide basis to determine a ranking of teachers who would be most and least receptive initially to handicapped children being placed in their classrooms, c) used to indicate possible changes in initial expectations in attitudes over time on a district-wide basis as a result of experience with handicapped children, inservice training, workshops and the like sponsored by the district.

To date, much work is still required to adequately field test the instrument on the teacher populations. It is recommended that further testing and inservice use of the instrument be carried out by the Bureau and by selective units in the field. This investigator had tentatively acquired permission to field test this instrument in three local districts, but time limitation on the existing paper precluded such efforts.

(Please refer to the form entitled The Teacher Expectations Form.)

b) Teacher Expectation Form Response Booklet:

Before reading the instructions for completing the form, please fill in the following background information:

MALE: _____ FEMALE: _____

Years of professional teaching experience: _____

Have you ever taught a special education class? Yes ____ No ____

Have you ever taught children with special needs in the regular class setting?

Yes ____ No ____ If so, how many years. _____

Credentials held: General Elementary ____ Special Education ____

Other (specify) _____

Check highest degree: Bachelor's ____ Master's ____ Doctorate ____

Current teaching assignment: _____

TEACHER EXPECTATIONS FORM

Instructions:

- Below you will find a description of a child who is being considered for placement in your classroom; please read the description very carefully. After reading the information you will be asked to evaluate how you feel that child will function within your classroom. You are asked to evaluate each statement based on the information provided you and from your past experiences.

It is possible that you may not find all the information within the vignette that you would like in order to respond knowledgeably to certain items. However, since many teaching decisions are made with only limited information, you are asked to use your best judgment based on what information is provided.

Please indicate your response to each statement on the following pages by circling the rating that corresponds to the degree to which you agree or disagree with the statement.

EXAMPLE:

It is cold in Alaska in the winter.

Strongly
Disagree

Disagree

Slightly
Disagree

Slightly
Agree

Agree

Strongly
Agree

The individual in this example considers Alaska to be very cold in the winter and so has circled the response that indicates a position of strong agreement with the statement.

Remember, both questionnaires that follow will refer to your evaluations of having a child like the one described below in your classroom. Even though you may not actually teach in a classroom at the age level of the child, *please assume* for the moment that you do and respond to each item accordingly.

The information found in the vignette has been compiled from the child's past school records, his teacher reports and psychological evaluations.

Please respond to *all* questions.

CHILD INFORMATION

All pertinent information relating to the child and placement will be presented here.

CHILD RELATED INFORMATION IS PLACED HERE.

NOTE: Be sure to read the questions and response choices very carefully.

1. Grade level reading materials will be too difficult for this child.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

2. This child is not capable of doing independent reading required to complete school assignments.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

3. This child will be aggressive with other children in order to get his way.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

4. This child will be accepted by his classmates during classroom projects.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

5. This child will not respect authority.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

6. This child does not appear to have a happy home life.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

7. This child will not maintain satisfactory attendance records during the school year.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

8. This child will be better off in a one-to-one teaching situation.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

9. This child will accept constructive criticism from the teacher.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

10. This child will not be able to maintain attention throughout the day on assigned classroom tasks.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

11. Behavior problems will increase among the other children with this child in your classroom.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

12. This child will be cooperative and enjoy working with other students.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

13. In your classroom, this child will be capable of passing grades in all subjects.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

14. This child's behavior will serve as a good model for other students.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

15. This child will have difficulty expressing himself verbally.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

16. This child will need a highly structured reward system, i.e., candy, M&M's, tokens, etc., to survive in your classroom.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

17. Your past *training* will enable you to effectively teach this child.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

18. This child will make normal progress, and advance at least one grade level throughout the school year in your classroom.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

19. This child will not make friends easily.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

20. This child will easily be discouraged in academic tasks if they are too challenging.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

21. This child will dress neatly and cleanly.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

22. This child can be trusted.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

23. This child should not be assigned to my class.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

24. Grades will be an effective reward with this child.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

25. This child will need remedial assistance from a resource room or other outside help.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

26. Your past *experience* will enable you to effectively teach this child.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

27. Verbal reprimands will not be an effective means of controlling this child's behavior.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

28. This child's homework assignments will not be turned in neatly and punctually.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

29. This child appears to have a good personality.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

30. This child will be courteous towards the teacher.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

31. This child will be poorly motivated in school work.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

32. This child does not receive adequate motivation for school at home.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

33. This child will be accepted by his peers when involved in athletic events and games, such as baseball, football, etc.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

34. This child's parents seem to be concerned about his school progress.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
----------------------	----------	----------------------	-------------------	-------	-------------------

35. This child will need help on tasks requiring minimal writing abilities.

Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
-------------------	-------	-------------------	----------------------	----------	----------------------

36. More time than usual will be needed to control this child's behavior in your classroom.

Strongly Disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
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NOTE: For the next four questions please circle the letter that corresponds most closely to how you perceive this child.

37. The child's IQ appears to be:

(a)	(b)	(c)	(d)	(e)	(f)	(g)
Below 50	50-70	71-90	91-100	101-115	116-130	130+

38. What do you estimate is the highest occupational potential of this child?

- a. Could never hold a job
- b. Unskilled work in a sheltered workshop
- c. Unskilled factory
- d. Semi-skilled
- e. Skilled and trained work
- f. Supervisory position
- g. Professional position

39. What do you estimate is the highest educational potential of this child?

- a. Jr. high school or 8th grade
- b. Finish some high school
- c. Graduate from high school
- d. Attend post high school other than college
- e. Attend college or Jr. college
- f. Graduate from college
- g. Post graduate school and professional training

40. In your judgment, what should be this child's placement?

- a. Special class all day; separated from the normal school buildings and grounds
- b. Special class all day but on school grounds so that the child may interact with other students in the school
- c. Special class or resource room all or most of the day
- d. Regular class part of the day with resource room help
- e. Regular class all day with auxiliary materials to aid learning
- f. Regular class all day
- g. Classes for mentally gifted students

NOTE: THE SERIES OF ADJECTIVES LISTED BELOW REFER TO THE CHILD YOU HAVE BEEN EVALUATING. PLEASE CIRCLE THE ADJECTIVE FROM EACH SET THAT MOST CLOSELY DESCRIBES HOW YOU PERCEIVE THE CHILD. BE SURE TO RESPOND TO EACH OF THE 14 SETS OF ADJECTIVES.

- | | | | | |
|----------------------|---------------------|--------------|---------------------|-------------------|
| 1. Very Unpleasant | Fairly Unpleasant | Have No Idea | Fairly Pleasant | Very Pleasant |
| 2. Very Competent | Fairly Competent | Have No Idea | Fairly Incompetent | Very Incompetent |
| 3. Very Cold | Fairly Cold | Have No Idea | Fairly Warm | Very Warm |
| 4. Very Attractive | Fairly Attractive | Have No Idea | Fairly Unattractive | Very Unattractive |
| 5. Very Bright | Fairly Bright | Have No Idea | Fairly Dull | Very Dull |
| 6. Very Helpless | Fairly Helpless | Have No Idea | Fairly Capable | Very Capable |
| 7. Very Normal | Fairly Normal | Have No Idea | Fairly Abnormal | Very Abnormal |
| 8. Very Distractable | Fairly Distractable | Have No Idea | Fairly Attentive | Very Attentive |

9. Very Skillful	Fairly Skillful	Have No Idea	Fairly Clumsy	Very Clumsy
10. Very Impulsive	Fairly Impulsive	Have No Idea	Fairly Self-controlled	Very Self-controlled
11. Very Neat	Fairly Neat	Have No Idea	Fairly Sloppy	Very Sloppy
12. Very Excitable	Fairly Excitable	Have No Idea	Fairly Apathetic	Very Apathetic
13. Very Inactive	Fairly Inactive	Have No Idea	Fairly Active	Very Active
14. Very Silly	Fairly Silly	Have No Idea	Fairly Sensible	Very Sensible

This subscale was developed by Guskin (1963) and incorporated into the general survey instrument.

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2) *Intra and Inter Cooperation:*

The need for increased cooperation among the staff and involvement of all individuals in the development of the handicapped child's program is outlined by Yoshida, Fenton, Maxwell and Kaufman, (1977) who highlighted the importance of teachers involved with the handicapped child taking the responsibility for developing and implementing programs for those handicapped children. The LRE doctrine, as well as, other components of Public Law 94-142, involve innovation and changes within the school system and its basic organization. There are some suggestions presented by Burns (1971) that apply to the implementation of the new law, in general, and especially the LRE doctrine. These suggestions could facilitate qualitative improvements towards the realization of the LRE concept. Some of Burns' suggestions are presented below and have been modified to reflect the specifics of the law.

- a) Work initially with the small select staff.
- b) Try to select a team of interested and interrelated persons.
- c) Select a project that can be initially handled. Often a small project should be the first step.
- d) Hold frequent but short meetings, requiring only those directly involved with the child's program to attend. These frequent meetings prevent minor problems from growing into major problems, as well as, allow many problems to solve themselves.
- e) Reward the team involved. Give incentives for those who take initiative in terms of serving the handicapped within the school.
- f) Fix clear responsibilities for all members involved in the efforts.
- g) Set definite time limits on all aspects of the project.
- h) Establish short term goals that can be easily measured to determine if success has been achieved.
- i) Do not burden the team with trivial chores and nonsense reports. Provide the team with both administrative and clerical support.
- j) Encourage all types of positive communication among members and levels involved in the effort.
- k) Be flexible when errors occur, correct them, change plans when necessary, and do not over commit to one idea or one course of action.
- l) Encourage production of ideas, plans, drafts and varying approaches among the team to insure that all feel the commitment towards the process undertaken.
- m) Provide supervision and support in terms of consultants and resources for all aspects of the program.

3) *Facilitator and Inhibitors of the LRE Process for Intra and Inter Staff Cooperation:*

In order to translate the specific suggestions into an applied checklist for the placement team, the materials employed in a recent workshop with special and regular educators have been employed. The materials were developed by Knutson and Von Seggern (1977) to assist educators in their attempt to improve

the qualitative dimension of the LRE Doctrine. They identified seven major areas where problems may arise to inhibit the qualitative improvements in programming and services for handicapped children. Along with the seven areas of concern, they also suggest possible solutions to facilitate the desired changes. This checklist will be most useful for the transition/monitoring team in identifying possible problem areas where limitations of the LRE concept can be identified.

QUALITATIVE IMPROVEMENTS

INHIBITORS

- A. Unclear IEP
- B. Lack of information concerning the process (mainstreaming) and the product (handicapped) children
 1. Uncertainty or fear of the known
 2. Ill-prepared for implementation
 3. Skills lacking
- C. Role delineation friction
 1. Ill-defined roles
 2. Lack of commitment
 3. Lack of leadership
- D. Communication Blockage or Friction
 1. Resistance
 2. Ignorance
 3. Lack of interpersonal skills
 - a. Rapport
 - b. Interviewing/consultative
 - c. Personal problem centered rather than pupil centered
 4. Power structure
 - a. Lack of awareness concerning existing power structure
 - b. Inability to cope with or work within the existing power structure

FACILITATORS

- A. Well-written IEP
- B. Well-informed staff in regard to process (mainstreaming) and product (handicapped) children
 1. Inservice within individual buildings
 - a. formal
 - b. informal
 2. Insure Success of Product by
 - a. mainstream handicapped child who is very strong in a certain area
 - b. "looks normal"
 - c. "acts normal"
- C. Clarity of roles
 1. Have role responsibilities written out and discussed
 2. Act according to role responsibilities
 3. Elicit administrative support
- D. Communication flow
 1. Active listening
 2. Teacher consultation
 - a. provide information
 - b. provide support
 - c. provide reinforce skills
 3. Kid-centered approach reduces emphasis on personal problem
 4. Flexibility within power structure ("roll with-it" trade-offs)

INHIBITORS (can't)

- E. Scheduling Blockages or Frictions
 - 1. Children into and out of regular and resource classes
 - 2. Setting up conference times for supportive and information sharing purposes
 - 3. Parental conferences
- F. Instructional/Programming Blockages
 - 1. Inconsistent goals and objectives between regular and resource staff
 - 2. Inconsistent instruction between regular and resource staff
 - 3. What classes to attend; credits to be given (secondary)
 - 4. Follow through commitment
 - 5. Record keeping
- G. Pupil Evaluation Frictions
 - 1. Inconsistent expectations
 - 2. Record keeping
 - 3. Follow through instructional programming not based on consistent pupil evaluation
- H. Program Evaluation
 - 1. Who is doing what?
 - 2. To whom?
 - 3. When?
 - 4. Why?
 - 5. Can it be changed?
 - 6. Should it?
 - 7. The process for program change is not known or is unclear.

FACILITATORS (can't)

- E. Scheduling effectiveness
 - 1. Use common rapport to facilitate
 - 2. Forms
 - 3. Contracts
 - 4. Use of paraprofessionals
- F. Instructional/Programming
 - 1. Matching children to teaching style
 - 2. Clearly stated objectives
 - 3. Contracts
 - 4. Joint lesson plans
 - 5. Feedback
 - 6. Appropriate selection of instructional methods/materials
 - 7. Interschool file of materials
 - 8. Record keeping (see pupil and program evaluation, section G and H)
- G. Pupil evaluation
 - 1. Establish criteria
 - 2. Select evaluation procedure
 - 3. Collect evaluation information
 - a. daily
 - b. weekly
 - c. monthly
 - 4. Make decisions based on evaluation data obtained
- H. Program Evaluation
 - 1. Resource personnel self evaluation
 - 2. Regular faculty evaluation
 - 3. General evaluation of Resource/Support Program
 - 4. Create parent evaluation form.

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4) Harmful Effects of Placement; Section 121a.552 (d):

The LRE doctrine includes a provision to insure that the actual placement setting for the handicapped child will not result in any harmful side effects. Section 121a.552 (d) states:

In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he/she needs.

Therefore, as a part of the self-study guide, it is recommended that a form be provided that addresses this concern. The actual nature and scope of the form would be developed through appropriate field testing and modified over time as the field matures in its ability to determine the potential harmful effects of placement decisions. The form proposed below represents an initial attempt to address the "harmfulness" aspect of placement decisions." The various areas included in the form and the ranking of the harmful effects which the placement setting may have on the child are presented primarily for discussion and elaboration. It is also recommended that the form be included in the IEP process to insure that all areas were considered during the placement process. (Please refer to the form entitled, "Harmful Effects of Placement Form.")

HARMFUL EFFECTS OF PLACEMENT FORM

Please evaluate the placement setting in relation to any harmful effects it may have on the child.

Rank		Emotional Adjustment	Psychological Adjustment	Peer Group Relation	Parental/Home Environment	Failure Potential	Other Areas
Harmful Effects of Placement	10						
	9						
	8						
	7						
	6						
	5						
	4						
	3						
No Harmful Effect	2						
	1						

10. LEA RELATIONSHIP WITH OTHER AGENCIES

Section 121a.554

a) *Rationale:* The amount of confusion regarding the LRE doctrine seems to expand almost geometrically as one leaves the confines of an LEA and ventures into the other placement settings. This writer has interviewed key individuals in both public and private programs who have not heard of Public Law 94-142, never mind the LRE component. It is because of this dramatic discrepancy between the LEA and other agencies that specific recommendations are made to insure that the letter and spirit of the law are realized for all children placed outside the LEA.

b) *Suggestions:* Once the decision is made to place a child outside of the immediate domain of the public day school system, the LEA must take steps to insure that the LRE doctrine is carried out. Whether the child is placed in another LEA, private day school, public or private institution, hospital, homebound program or correctional facility, the LEA should document the following:

- 1) The list of placement alternatives within the particular primary setting, (See General Model of LRE Placement Options) and the extent to which the handicapped child will be able to participate in special and regular education within the LEA (See 121a.452, 121a.360).
- 2) A procedure to establish channels to insure that direct and meaningful communication occurs regarding all aspects of the child's program, such as IEP, parental involvement, inservice training etc. The LEA and all agencies involved with educating the handicapped child should assign specific personnel and/or committees to insure that the communication channels are established and operating (See 121a.360, 121a.452).

There has to be prior agreement and understanding between each of these administrative units in relation to the LRE doctrine and the components thereof in order for quality to be assured. To what extent will the cost of arranging for the IEP meetings, phone calls, logistics and other details related to the arrangements of an LRE continuum be shared? Does the responsibility for these costs lie totally with the LEA or, where the child is primarily placed? Or, is it to be shared equally between and among those agencies providing services to those children? How will surrogate parents be selected? How and to what extent will LEA have input into the content of the IEP. To what extent will LEA be able to suggest modifications within existing programs of the individual agency etc.?

- 3) The procedures that have been established to insure that the appropriate interface of services between the LEA and agency occurs. This interface of services will enable the movement of handicapped children into and out of LEA's to occur smoothly.
- 4) The inservice efforts in relation to the LRE doctrine that are provided the staffs at each of the agencies working with handicapped children. This inservice should come from the SEA, LEA, a university or college or the agency itself.
- 5) The procedure where the LEA will be provided the anticipated timelines that each handicapped child will remain in any particular agency. This information will enable the LEA to estimate the cost of the programs and the approximate time to be spent by each handicapped child. If the handicapped child stays longer in any or all settings beyond the expected time, the LEA could then seek an explanation as to why the delay or change of program or services to the handicapped child. Granted, it is understood that the time spent by any one handicapped child will vary, however, each agency usually selects clients with traits and characteristics that will reflect a certain range of potential behaviors and, as such, has some idea of the length of time most children remain in their program.
- 6) The agency should also provide the LEA with information indicating the distribution of the handicapped children under their care. Although it will vary for each agency, a prototype form is presented below for a residential program. By plotting the location of the handicapped children, the agency will provide the LEA with an indication of where and how their children are served. Please refer to *The Resident Location Form for Institutional Setting*.

c) RESIDENT LOCATION FORM FOR INSTITUTIONAL SETTING

Please indicate the primary residential and educational location of all handicapped children under your care.

RESIDENTIAL LOCATION	EDUCATIONAL LOCATION				
	Institutional School Full Time	Institutional School Part Time	Public Day School Part Time	Public Day School Full Time	TOTAL
Natural Home of Child					
Foster Home					
Group Home					
Full Time Resident at Institution					
TOTAL					

11. SEA MONITORING ACTIVITIES

Section 121a.556

As one indicator of the SEA Monitoring Procedure of the LRE doctrine, the SEA should document the number of hearings and disputes that arise each year regarding handicapped children in relation to the LRE component. This would enable an indepth case study of the specific complaints in an attempt to acquire better insights and understanding of the possible conflicts involved in satisfying the LRE doctrine is being implemented over time in any particular state. Namely, if the number and kind of complaints continue to rise instead of decline, it could be an indication that the state and LEA efforts are not adequate in providing services to the handicapped child's least restrictive environment.

However, it should be noted that this is not the only possible conclusion that could be drawn from an increased number of hearings and disputes on a state level regarding the LRE doctrine. A by-product could also be the level of awareness and the intensity of the advocacy of some groups in their increasing awareness of their rights and of the federal mandates. This could possibly make them more insistent upon the highest quality of programs and services in the least restrictive setting for their children.

At any rate, the data generated from the state regarding LRE hearings would enable some assessment of what the cause or causes of these hearings were. The Bureau, SEA or LEA could then provide appropriate inservice, recommendations, or resources to alleviate potential causes of the LRE conflicts.

This same approach in documenting conflicts and disputes over the LRE component of the law can be done at the LEA. Each LEA could refer all possible complaints to its LRE committee for solution and analysis of the particular problem.

CHAPTER III

1. GENERAL RECOMMENDATIONS

a) *Extensive Self-Study Guide:* The confusion surrounding the LRE doctrine is very extensive. As indicated by the survey of special education teachers, regular education teachers, and administrators regarding the least restrictive environment, there is: 1) much confusion as to the meaning of the LRE concept, 2) much ignorance on the part of regular education regarding the handicapped children, 3) some resistance on the part of both regular education and special education staff to commit fully to the concept of the least restrictive environment, and 4) minimal involvement in the formative stages of the IEP

writing by all parties potentially involved in providing services to handicapped students. The limited commitment at the summative end of the IEP process means potentially limiting the LRE options for the handicapped child. Other writers (Hayes and Higgins, 1978) have stated their concerns regarding the misuse and confusion by professionals about the terms "mainstreaming" and "least restrictive environment". These writers clarify that mainstreaming and the LRE doctrine are two distinct terms. Also, Nix (1977), writing on behalf of hard of hearing children, expressed grave concern over the misuse of the LRE concept as a possible justification for the wholesale mainstreaming of hearing impaired handicapped children.

Faced with the scope of the problem of trying to implement the LRE doctrine in both letter and spirit, it is recommended that an extensive self-study guide be developed. This initial self-study guide should range beyond the immediate needs of the Bureau and/or the SEA in terms of their data or reporting requirements. The self-study guide should range beyond the immediate needs of the Bureau and/or the SEA in terms of their data or reporting requirements. The self-study guide should be designed as an optimal model which would serve primarily as an educational instrument to improve, sensitize, and suggest best practices and procedures for all LEAs. It is essential that every potential point of the LRE continuum be documented and outlined in this initial guide.

Since the time lines of this existing position paper preclude any extensive meaningful field testing of the basic forms, procedures, and suggestions of this paper, it is recommended that a self-study guide be field tested for modifications recommendations, and input from practitioners in the field. The initial field testing of the self-study guide should be primarily aimed at the LEAs. There are two reasons for this: first, the LEA will serve as a catalyst for implementing the law and thus, the largest and most extensive data base will be found in relation to the LRE doctrine at the LEA level. Second, the LEA is where the letter and the spirit of the law will be actualized in terms of services and programs directly to the handicapped child. Therefore, the utility of a self-study guide as a means to assist LEA's in their efforts to achieve an optimal implementation of the LRE doctrine could be directly assessed.

Appropriate field testing of this optimal model will enable respondents from across the country to:

- 1) React and comment on each of the critical points along the LRE continuum from the specific letter to the spirit of the law.
- 2) Assess their level of compliance with the letter of the law.
- 3) Judge their efforts and/or progress towards the spirit of the law.
- 4) Make recommendations in relation to their "best practices" that may be, in reality, better than those suggested in the initial model.

- 5) Possibly compare their existing programs to other LEAs of comparable size, SES and population base.

Finally it is expected that the feedback from the various LEAs would assist the Bureau in its efforts to clarify and implement the various components of the LRE doctrine.

b) *Mac Report and Self-Study Guide:* The need for an extensive LRE self-study guide should be examined in light of the comments found in the Final Report of the Management Analysis Center's Survey of State reporting capabilities (See Final Report, MAC, 1977). The MAC report indicated that the SEAs found the LRE data requirements to be too extensive, troublesome, and impractical. However, since their survey concentrated on the SEA's ability to aggregate certain data points for their annual program plan, it did not directly reflect the LEA's needs to effectively implement the LRE doctrine in both letter and spirit. As indicated in the survey of the LEAs, the amount of confusion that currently exists regarding the LRE concept almost necessitates an extensive self-study guide, if any consistent progress is expected. Therefore, there appears to be a need to direct the LEAs in their effort to implement not only the letter of the law but the spirit and intent of the law. The self-study guide will be primarily employed as an inhouse monitoring procedure by each LEA. The guide would enable each LEA to assess it's overall commitment to the LRE concept.

c) *LEA In-House Modifications:* Much of the success of an LEA in implementing qualitative changes in the various components of Public Law 94-142, especially the LRE doctrine, will depend on several in-house modifications.

1) *Administrative Structure:* The first of these should be an administrative structure to reflect any and all changes as a result of the Public Law. The district should be sure to document its current organizational structure and its chain of command in relation to providing programs and services to handicapped children. A specific list of responsibilities for each level and component in this organizational structure should also be detailed. As the district proceeds to make appropriate changes, recommendations and modifications in relation to the LRE doctrine, any and all structural and administrative changes should also be addressed and documented on the self-study guide. Also documented within the administrative structure would be any changes in responsibilities and roles in relation to LRE practices especially with agencies other than the LEA.

In an interview with the superintendent of a local school district, he expressed concern that educational administration as a whole had not been too involved with Public Law 94-142 or its potential ramifications. He stated that the educational administrators (in particular, principals) do not see their roles as change agents or as key persons in mainstreaming either with the IEP process or

the LRE doctrine. It was his recommendation that 1) special education and educational administration jointly work on efforts at inservice training and at the pre-service level at the university and 121a.382 (f), (3),(2) the role of the principal as a change agent be clearly defined in each LEA.

The superintendent made a special point regarding the principal and the qualitative implementation of the LRE doctrine. He indicated a need for strong administrative support for the placing of handicapped students into the regular class setting. Much of the cooperation, support system, logistical, and scheduling changes needed for successful integration will have to come from the office of the principal. Therefore, securing and understanding the principal will be essential to any meaningful changes in relation to the LRE doctrine.

2) *Steering Committee*: Another possible in-house modification should be the establishment of a steering committee. Each LEA should establish a committee consisting of representatives from all units and levels within that LEA. District level administrators, psychologists, principals, special and regular class teachers, and parents should be represented on this committee. This committee could provide appropriate guidance for establishing, monitoring, modifying, and refining LRE policies and procedures in the LEA. The function of the committee would be as a watch dog to insure that placement procedures are appropriately monitored and that handicapped children, placed in various settings, are done so consistent with mandates and current regulations. The committee could also serve in an advisory capacity for new personnel as well as for problems that arise in the district in regards to LRE decisions. This committee could also coordinate resources and personnel to provide continual ongoing inservice training where needed in the district to insure that all levels and components of a total district educational effort are moving towards the implementation of the spirit of the LRE doctrine. Finally, the committee can serve as a liaison between the LEA and the local institution of higher learning that will be providing in-service training and pre-service training to teachers. Through this procedure the committee could then inform and document their needs to the institution to insure that all pre-service teachers are adequately exposed to the concerns and needs of LEA's within that state or area. Also, any and all inservice needs could be appropriately addressed through inservice activities by the institution.

3) *Board of Education*: Another area of concern that should be addressed by the LEA involves a qualitative implementation of the LRE doctrine and may necessitate modifying views of the Board of Education. To date, little has been done to document attempts to educate the Board of Education. Several LEA administrators have expressed a concern over the lack of understanding on the part of the Board to changes in special education in general. Most seemed to indicate that insight and understanding by a particular member of the Board was closely related to his/her past experiences, such as a parent of handicapped

children. Their recommendations were to insure that the Board members were actively involved (to the extent possible) in all inservice training, program modifications and services to the handicapped population. Without a systematic attempt to enlighten the Board to the many changes occurring in special education, much of the basic support required for qualitative improvements will be lost.

4) *Coordinated System of Service:* There also appears to be a great need for each LEA to modify existing services to the handicapped by insuring that a systematic and coordinated program is developed at all educational levels within the district.

The least restrictive environment doctrine will have different meanings within the different levels of the educational system. The rate and level of functioning between the handicapped child and the nonhandicapped child at the elementary level will not be as great as the discrepancy in the junior high and high school level. There will be a greater and increasing distance between the performance of handicapped students as they get older than their non-handicapped peers, especially in the area of mental retardation. Because the high school program inherits the handicapped children from the junior high and in turn the junior high from the elementary program, there is a need for districts to evaluate the comprehensive plan for the transition of students from the elementary to junior high to the high school. The transition should be done by some tracking mechanism to insure that appropriate communication within and between staffs, programs and levels occurs.

An example of a coordinated effort on the part of an LEA can be seen in vocational education for the handicapped. In order for a vocational program to be effective, it must have built a sound foundation of support among the parents, students and the business community. However, the success of the program at the high school level will, for a large part, be dependent upon the awareness and training provided in the junior high school curriculum for pre-vocational skills. Without a coordinated approach between the high school and junior high school programs, much of this valuable preplanning and early shaping will be lost.

There appears to be a different response required in terms of the least restrictive environment at the different levels. A student with learning problems will be dealt with differently, based upon his developmental and functional level at the elementary level than at the high school level. For example, the awareness of the handicapped students at the junior high school level of peer pressure and peer accountability is much greater than at the elementary school level. Therefore, different procedures should be undertaken to insure that the least restrictive environment, not only in terms of program options, but also with respect to the psychological components of the student development and how he or she perceives the setting, should be considered by each LEA at each level of the educational process.

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SECTION III

Placement in the Least Restrictive Environment

Jay Gottlieb

GOTTLIEB, JAY. Dr. Gottlieb received his Ph.D. degree from Yeshiva University. During the past eight years he has conducted research and established programs in the area of mainstreaming retarded children. His primary area of professional interest is with the social acceptability and adjustment of mildly retarded children. Most recently Dr. Gottlieb has been studying the impact of community-based education on institutionalized severely retarded children, and the role played by citizen advocates in facilitating retarded people's transition into the community.

One of the major provisions of the procedural safeguards section of Public Law 94-142 is that handicapped children should be educated in the least restrictive environment. The intent of this section of the law is to have handicapped children educated together with nonhandicapped peers to the maximum extent that is appropriate. The law does not indicate how the maximum extent appropriate is determined. However, unless specific criteria can be generated which spell out very clearly when a placement is the least restrictive, the likelihood is great that many children who belong in a segregated placement will not be and other children who should be mainstreamed also will not be. It is equally possible that the least restrictive environment will automatically be interpreted as the most appropriate environment by some school administrators, when clearly this was not the intent of the law. The essence of Public Law 94-142 is to provide handicapped children with the most appropriate education possible. The notion that the education must be in the least restrictive environment is correct, but only when such an education is appropriate.

Few people concerned with quality education for handicapped children would deny that the intentions of the law are admirable. Those who worked so hard for adoption of Public Law 94-142, especially the provisions dealing with placement in the least restrictive setting, sincerely believed that handicapped children would fare better if they were educated alongside nonhandicapped peers. They believed that handicapped children would no longer be stigmatized if they were educated in regular classes, as opposed to self-contained special classes. They believed that handicapped children would learn acceptable behavior if they had nonhandicapped peers to emulate, as opposed to being consigned to a classroom where the only available role models were other handicapped children. They believed that handicapped children would learn more academically if they received the same academic curriculum and academic demand as nonhandicapped children, as opposed to the 'watered-down' curriculum and lesser academic demand that was so common in many special classrooms. And while there was--and still is--little evidence that any of these beliefs are justified, advocates of Public Law 94-142 argued rightfully that the burden of proof is on those who want to continue segregated classrooms to demonstrate that these classes are actually helpful to handicapped children, and not simply that they are not harmful. Put another way, if special classes cannot provide a superior education for handicapped children there is little justification for their continued existence.

Careful examination of the literature on the effects of class placement reveals that handicapped children do not fare well regardless of whether they are educated in self-contained classes or spend their entire school day in regular classes. Some of this literature will be reviewed in the following section of this position paper. If class placement has little effect on handicapped children's performance the major purpose of Public Law 94-142, then, should be on

developing ways to improve the educational performance of handicapped children; emphasis on promoting placement with nonhandicapped children should be relegated to lesser importance *since the bulk of the evidence suggests that such placement is not accompanied by demonstrably better performance.* From this vantage we require an alternative definition of the term *least restrictive*. The working definition that will be adopted for the present discussion is as follows: *least restrictive environment implies that environment which imposes the fewest limitations on the handicapped child's educational performance, regardless of whether such placement is with nonhandicapped peers.* To this definition, we must add one qualification: *If there is no observable difference in the educational performance of handicapped children in regular or self-contained classroom settings, the regular setting shall be preferred.*

The use of the working definition that is being employed here implies that we must be able to identify classroom environments that are suitable for handicapped children. This is not a simple task. First, we must be able to identify educational environments that are suitable for some handicapped children but not others. Second, we must be able to identify criterion variables that can be employed to assess handicapped children's level of functioning. Without well defined criteria we have no way of knowing whether or not a placement is appropriate. In other words, the task at hand is to identify relevant independent variables that will enable us to identify components of educational environments that are appropriate for particular handicapped children, and to identify relevant dependent variables that will enable us to evaluate whether the handicapped child is performing well in his class placement. Further, the variables that we identify must be translated into direct educational practice at the school and/or classroom level or they will remain marginally useful at best. Failure to identify meaningful and measurable aspects of the educational environment as well as appropriate criteria to assess child progress will effectively preclude any progress toward improving the education of handicapped children. It will result in a continuation of present-day practices in special education—not to mention regular education as well—where educational innovations are made because certain people 'feel' that the innovation is appropriate; or, where innovation often results from judicial rulings because the defendants (usually school systems) simply do not have the evidence to justify their actions.

Nowhere is the need for guidelines more evident than in the area of labels and stigma, two emotionally loaded words that more than any others were probably responsible for the demise of self-contained educational programs. The argument was advanced, and often repeated (see most recently Abeson & Zettel, 1977), that special classes stigmatize children, and that if handicapped children were not educated in special classes they would not be labeled and, therefore, not be stigmatized. This argument was in part responsible for the passage of Chapter 766 of the General Laws of Massachusetts, a pioneering piece of legislation that

was a forerunner of Public Law 94-142. Clearly, the argument that special classes label children and that labels stigmatize this face validity. It certainly sounds plausible. The difficulty is that there is relatively little evidence to support this assertion. There is far more evidence that the behavior exhibited by a child contributes more to his social rejection than does a label that is applied to him. In other words, a child whose behavior does not conform to an expected norm is likely to be stigmatized regardless of whether he is enrolled in special or regular classes (see Corman & Gottlieb, 1978 for a review of this literature). And while there is evidence available that mildly handicapped children are not especially fond of their special class placement, it is just as likely that they are not enamored of school in general since they are not apt to be competent performers regardless of their educational placement. In short, despite the fact that there has been considerable rhetoric that segregated education stigmatizes children, the preponderance of evidence does not support the rhetoric. Yet, despite the fact that the allegedly deleterious effects of labeling have been seriously questioned in the literature (see MacMillan, Jones, & Aloia, 1974 for a scholarly review of the issues) proponents of special education reform seldom, if ever, mention the review article by MacMillan, et al. It is almost as if there is no room for reasoned thought when the thinking does not support a humanistic, reform-minded position.

It may be argued that the research evidence is misleading and that the wrong questions were asked and/or faulty methods were employed. This certainly is possible. But if the research evidence is misleading the burden of proof falls on the critics to conduct additional research to refute the evidence. Simply ignoring available data does not strengthen the hand of those who have alerted us to the harmful effects of labeling. *It is time to start relying on research evidence to develop guidelines for appropriate decision-making in special education.* We cannot continue to rely exclusively on "informed opinion" when all too often the opinion is not very well informed. If the research evidence is inappropriate or faulty, let us seek out better evidence and not content ourselves with the illusion that research is worthless and not likely to be useful for making decisions. Worthless research produces worthless data, but good research can be very illuminating and is definitely worth obtaining.

What has the research found? What do we presently "know" about the educational performance of handicapped children? Some of the available evidence suggests that handicapped children fare better in one setting or another. However, when the studies are reviewed as a whole the most conservative conclusion that can be drawn is that to date few educational methods or materials have been shown to explain sizable amounts of variance in an educational criterion variable when the methods or materials are applied on a classroom basis to groups of children. As an example, Project PRIME, a large scale study of integrated special education for mildly retarded children failed to detect sizable relationships between a variety of classroom variables and learner

variables. Most of the relationships that were statistically significant were not of sufficient magnitude to be useful for predictive purposes.

An exception to the generalization regarding the limited usefulness of research in the area of mainstreaming is the set of findings in the area of social acceptance. The majority of this research, which will be reviewed later, indicates that the placement of mentally retarded children in regular classes does little to promote their social acceptance among mentally typical classmates. Mentally handicapped children remain unaccepted regardless of their class placement. There are always certain handicapped children, however, who are socially accepted and at times are sociometric "stars." This is true whether the handicapping condition is mental retardation (see Ballard, Corman, Gottlieb, & Kaufman, 1977 for a discussion of this point) or whether the handicapping condition is blindness, as when sighted subjects in a study by Jones, Lavine, and Shell (1972) reported that some blind students were well regarded because they had pleasant personalities. Although there have been relatively few studies conducted on the reasons why handicapped children are not well liked by their classmates, the bulk of evidence indicates that their nonacceptance is attributable to inappropriate behavior than to the handicapping condition per se. From an educational perspective, the fact that nonacceptance is associated with inappropriate behavior is "good" since behavior is malleable and can be changed. The environment that results in handicapped children exhibiting the least noticeable behavioral aberrations could be defined as the least restrictive environment.

In the following section, some of the literature pertaining to the effects of mainstreaming on handicapped children will be reviewed to provide background information. The reader will notice that the majority of research reviewed will focus on mentally retarded children. This distortion of research emphasis reflects both the writer's own interests, and more importantly, the relative state of research in different disciplines other than mental retardation. These other disciplines do have substantial numbers of "think pieces" or program descriptions. These latter papers will not be covered in this review, however.

REVIEW OF LITERATURE

Studies of Academic Achievement

Two investigations compared achievement of special class EMR pupils with that of regular class EMR students who were offered supportive services in a resource room. Budoff and Gottlieb (1976) randomly assigned 31 EMR pupils, approximately 13 years of age, to regular and special classes. The 17 integrated pupils attended an academically oriented resource room for approximately 40 minutes a day throughout the school year. Metropolitan Achievement Tests were administered to pupils at the end of the previous school year when all were in

special classes, two months after the beginning of the year, and at the end of one year of treatment. Results of analyses of covariance on standard scores attained at the last two test administrations, with scores on the initial tests administration covaried, revealed no difference in reading or arithmetic achievement between integrated and segregated students at either point in time.

Walker (1972) also compared achievement of special class EMR pupils with that of integrated EMR pupils receiving academic instruction in a resource room. Twenty-nine experimental subjects were matched on reading achievement and age (9 to 11 years) with 41 control students who received academic instruction in their special classes. During two school years the experimental subjects were taken to a resource room for 45 to 60 minutes a day for academic instruction. Diagnostic and prescriptive educational plans were formulated by the six resource room teachers who participated, and four of the six teachers used behavior modification techniques to facilitate learning. All students were administered the word reading, vocabulary, and arithmetic subtests of the Stanford Achievement Test at the beginning and end of the second school year. Analysis of variance on grade equivalent gains between the two test administrations revealed that experimental subjects had higher mean gains in word reading and vocabulary than subjects who had not received resource room instruction, a finding which differed from that of Budoff and Gottlieb (1976). The difference in arithmetic gains of the two groups was not significant.

One of the few large scale studies of the effects of mainstreaming on achievement of retarded pupils was conducted by Meyers, MacMillan, and Yoshida (Note 1) in 12 California school districts. The study compared scores on the Metropolitan reading and mathematics subtests of EMR pupils remaining in special classes, decertified EMR pupils in regular classes who had been enrolled in special classes, and low-achieving regular class control students matched with decertified pupils on grade level, sex, and ethnicity. Analysis of covariance on mathematics and reading scores with grade level covaried revealed a significant difference among the three groups in both subject matter areas; post hoc comparisons confirmed that EMR pupils scored significantly lower than decertified pupils and the latter scored significantly lower than low-achieving control students on reading and mathematics achievement. Decertified pupils, however, did not significantly differ from the low-achieving control students with respect to teachers' grades in reading or mathematics.

Studies on achievements of EMR pupils in a variety of school settings reveal inconsistent results. Unfortunately, the designs of most achievement studies have failed to isolate particular treatment methods so that it is impossible to determine which treatment components were responsible for improvement.

Studies of Social Adjustment

Studies of retarded children's social adjustment have varied with regard to the definition and measures of social adjustment. None have employed the term in a strictly clinical sense which incorporates indepth interviews of children's feelings. Most investigations of the effect of mainstreaming on the social adjustment of retarded children have relied upon perceptions of others or the retarded child's own perceptions of his social functioning.

Others' Perceptions of Retarded Children

Peers.

Early research that compared the social acceptance of EMR children in integrated and segregated class placements typically reported that segregated children were more accepted than EMR children of comparable IQ who remained in regular classes (e.g., Thurstone, Note 2). These results, however, are difficult to interpret since segregated EMR children were rated by their EMR peers, while integrated retarded children were judged by their nonEMR classmates. Because integrated EMR children may function considerably below the modal level of their class, it is not surprising that they were found to occupy the least favorable position in the social status hierarchy of their peer group.

A more meaningful comparison of the social status of integrated and segregated retarded children requires ratings of both groups of EMR children by children of comparable ability. Such an approach was conducted by Gottlieb and his colleagues in a series of investigations.

In one of the first studies to examine the effects of mainstreaming on social acceptance, Goodman, Gottlieb, and Harrison (1972) compared the sociometric status of 10 EMR children who attended regular classes in a nongraded elementary school and eight EMR children who remained in a special class in the same school. A forced choice sociometric scale was administered to 40 nonEMR children who rated the integrated and segregated EMR children and a randomly selected sample of other nonEMR children. Results indicated that: (a) nonretarded children occupied a more favored social status in the peer hierarchy than either integrated or segregated retarded children, and (b) male raters rejected integrated EMR children significantly more frequently than they rejected segregated EMR children. These results failed to support the commonly held belief of special educators that mainstreamed placement promotes the social acceptance of retarded children.

Since mainstreamed placement provides greater opportunity for contact between retarded and nonretarded children, one possible explanation for the results of the Goodman, et al. (1972) study is that exposure of the EMR child's behavior to his nonretarded peers fails to improve his social acceptance. This hypothesis

was tested in an investigation by Gottlieb and Budoff (1973), who speculated that greater exposure between nonretarded and retarded children may actually be accompanied by lower social status of the latter group of children. These investigators administered the same sociometric measure used in the previous study to 136 nonretarded elementary school pupils. These raters provided sociometric ratings of a randomly selected group of nonretarded peers, 12 partially integrated EMR children, and 12 segregated EMR children who attended the same schools as the raters. Both the integrated and segregated EMR children were enrolled in one of two schools: the first school building, from which 50 nonEMR raters were selected, was traditional in that it contained classrooms accommodating approximately 25 to 30 children; the second school building, from which 86 nonEMR raters were recruited, did not contain any interior walls and as a result all children, including the retarded children, were visible to all other peers. The segregated EMR children in the no-interior-wall school occupied a corner of the building and were the least visible children in the school, although they were still more visible than the segregated children in the traditional school building.

Two specific hypotheses were advanced. The first hypothesis was that, regardless of placement, EMR children in the no-interior-wall school would have lower social status than EMR children in the traditional school, because the former group of EMR children was more visible to their peers. The second hypothesis was that partially integrated EMR pupils would receive less favorable ratings than segregated EMR pupils regardless of the school which they attended, because integrated EMR children were more visible to their peers than segregated EMR pupils. Results supported these predictions. Both retarded and nonretarded children in the no-interior-wall school had lower social status on the average than pupils in the traditional school. Also, integrated pupils had lower social status than segregated pupils, regardless of the school in which they were enrolled. This study also confirmed the finding by Goodman, et al. (1972) that nonEMR children as a whole enjoy more favorable social status than either partially integrated or segregated EMR children.

Evidence also suggests that removal of the mentally retarded label has little effect on the acceptance of EMR children. Support for this conclusion was provided by Iano, Ayers, Heller, McGettigan, and Walker (1974) who compared the sociometric status of three groups of elementary school pupils in regular classes: 606 nonretarded children, 40 EMR children who were formerly in special classes and currently received resource room support, and 80 children who had never been diagnosed as mentally retarded but attended a resource room for supplemental academic assistance. Results revealed that EMR children who attended the resource room program received the least positive sociometric ratings while nonretarded children received the most positive ratings. The authors concluded that labeling alone does not account for social rejection.

While the previous studies with elementary school children indicated that

placement of retarded children in regular classes failed to result in more favorable attitudes toward them, different results were obtained in Sheare's (1974) study of 400 adolescents. Two hundred subjects were randomly assigned to classes with no EMR pupils, and the remaining half were assigned to classrooms with one to three EMR pupils who were partially integrated into at least two regular classes. Results indicated that nonEMR adolescents who had the opportunity to interact with EMR students expressed significantly more favorable attitudes toward special class pupils than did nonEMR pupils who did not have EMR pupils in their classes.

While class placement and exposure affect the extent to which peers can observe the behavior of EMR children, the amount of time that retarded children are actually exposed to nonretarded children during the school day was not directly examined in any of the previous studies. The many ways that mainstreaming practices are implemented by schools results in a continuum in the amount of time that integrated retarded children spend in regular classes. Ongoing practice is not a simple dichotomy with EMR children either totally mainstreamed or exclusively placed in a self-contained class (Kaufman, et al., 1975). In fact, one study which explored the amount of time that EMR children in several school districts spent with nonhandicapped peers indicated considerable variation in the number of hours per week that integration occurs (Gottlieb, Agard, Kaufman, & Semmel, 1976). Given the findings of studies of placement and architecture, as well as the finding of early studies that retarded children are rejected because they are perceived to misbehave (Baldwin, 1950; Johnson, 1950), one could hypothesize that the more time retarded children are visible to their nonhandicapped peers, the more they are likely to occupy an unfavorable social position.

This hypothesis was tested by Gottlieb and Baker (Note 3), who assessed the social status of 324 elementary school EMR children who were integrated with nonhandicapped peers for different amounts of time during the school day. Results revealed a significant quadratic relationship between the percent of time EMR children were integrated and their social acceptance, with children increasingly less accepted by nonEMR peers as they spent up to 65 percent of their time in the regular class, and increasingly more accepted as they spent more than 65 percent of their time in the regular class. The quadratic effect of time uniquely accounted for only 2.4 percent of the unique variance in acceptance, however, and the linear relationship between percent of time integrated and social acceptance was not significant. Significant relationships were not obtained between social rejection scores and either the quadratic or linear effect of time.

Two assumptions were underlying Gottlieb and Baker's (Note 3) hypothesis. On the basis of previous research (Baldwin, 1958; Johnson, 1950), the investigators assumed that retarded children in a regular class do not readily conform to the level of accepted social behavior of their nonretarded classmates; therefore, it

was assumed that the more time EMR children spend with nonEMR children, the more nonEMR peers are likely to perceive the retarded pupils' discrepant behavior and to rate them less favorably. One possible reason for the finding in this study that amount of time integrated did not adversely affect social status is that nonretarded peers may quickly perceive inappropriate behavior of EMR classmates when initial impressions are formed. If these first impressions are firmly held, as evidence suggests (Kleck, Richardson, & Ronald, 1974), the EMR pupil's subsequent behavior over time may not negate the initial perception which is reflected in his low social status. Another possible explanation for the lack of relationship between time and status is that the integrated retarded children's behavior may not have actually differed from that of their nonretarded classmates, as had been assumed. One study which employed direct observation of behavior lends support to this conclusion (Gampel, Gottlieb, & Harrison, 1974), in apparent contrast to the finding of earlier studies (Baldwin, 1958; Johnson, 1950) that nonretarded children reject EMR pupils because of (perceived) misbehavior.

In a subsequent study, Gottlieb (Note 4) examined the relationship among time integrated, perceived behavior, and social status. Specifically, the investigator ascertained the relationship of sociometric status of the EMR sample in the previous study to peers' and teachers' perceptions of EMR pupils' academic ability and aggressive behavior, as well as the linear and quadratic components of the number of hours of academic integration per week. The prediction was advanced that teachers' and peers' perceptions of behavior exert greater influence on an EMR pupil's social status than the amount of time for which he is integrated. Results supported this prediction. Teachers' and peers' perceptions of EMR children's misbehavior were significantly related to social rejection scores. Teachers' and peers' perceptions of EMR children's academic competence, while not related to rejection, were significantly correlated with social acceptance scores. Neither the linear nor the quadratic component of time contributed a significant percent of unique variance in social acceptance or rejection scores. These results revealed not only that people's perceptions of EMR children's behavior influence the way they evaluate them, but also that perceptions of academic and social behavior affect acceptance and rejection differently. The implication is that acceptance and rejection may not necessarily be two ends of a single continuum but instead may represent separate dimensions. This study indicated that amount of time integrated per se has little effect on social status.

The selective review of research presented here suggests that mainstreaming handicapped children does little to improve their social acceptance to peers. The often assumed stance that mainstreaming would remove the stigma of special class placement (e.g., Dunn, 1968) does not appear to be supported by the data, at least insofar as handicapped children's social acceptance is concerned.

Two Separate Concerns— The Institution and the School

How can we determine that a handicapped person is being educated in the least restrictive environment? Given the diversity of abilities and characteristics of handicapped people, as well as the diversity of environments in which they are educated, there is no simple answer to this question. Indices that are effective criteria for one handicapped person may not be effective for another handicapped person. An environment that results in fewer incidents of physical sickness for a severely retarded person may be irrelevant for another related person who seldom gets sick. Yet, despite the idiosyncracies of individual people, we are forced to attempt to describe some general criteria to describe least restrictive environments that are suitable for large numbers of handicapped people. For purposes of convenience, two different cases will be specified, and criteria to evaluate the least restrictive component of each will be developed. The two cases are: (a) handicapped children who are transferred from institutional facilities to community schools, and (b) handicapped children already attending public schools who are being mainstreamed into regular classes. These two situations obviously overlap considerably with the degree of handicap manifested by the children in question. Children who presently reside in institutions are apt to be moderately or severely handicapped while those who attend community schools are apt to be moderately or mildly handicapped. It is also true, however, that some mildly handicapped children can be found in institutions just as some severely handicapped children can be found in community schools. These two cases are sufficiently dissimilar, however, to warrant separate discussions of methods to implement and to evaluate the least restrictive environment for each. Institutional concerns will be discussed first.

Issues Related to the Transfer Of Handicapped Children From Institution to Community Schools

The past decade has been marked by considerable changes in the field of special education. A century-old history of institutionally-based education for severely handicapped children is quickly ending, as is the eighty year history of self-contained special classes for mildly handicapped children. The recent passage of Public Law 94-142 (The Education for All Handicapped Children Act of 1975), coupled with a variety of accompanying judicial rulings, appear to have mandated that all handicapped children, regardless of the severity of their handicap, are to be educated in contact with nonhandicapped peers to the maximum extent feasible. The concept of educating handicapped peers with nonhandicapped peers is referred to in Public Law 94-142 as education in the *least restrictive environment*. The term *restrictive* is intended to mean any education that deviates from what is ordinarily provided to nonhandicapped

children. *Least restrictive* is intended to mean the environment that imposes the fewest limitations on the handicapped child's interactions with nonhandicapped peers.

The law also provides for the continuation of segregated facilities for handicapped children if it can be demonstrated that less restrictive environments are inappropriate for the handicapped child. However, it is doubtful that special educators will be able to justify placing handicapped children in other than the least restrictive environment. Consequently, plans are presently being made across the country for placing handicapped children in environments that are less restrictive than the ones in which they are presently situated. A case in point are the plans being made to transfer children from institutional facilities to community day school programs.

Not surprisingly, current attempts to deinstitutionalize handicapped children are fraught with problems, most of which are the result of professionals' limited experience in the area. One purpose of this paper is to acquaint the reader with some of the problems that accompany efforts to deinstitutionalize handicapped children.

Least Restrictive Environment: From Institution to Community

One of the primary intentions behind the movement to provide handicapped children with an education in the least restrictive environment was the desire to improve the lives of children who lived and were educated in institutional facilities. Recent coverage in the popular press as well as the professional literature revealed many instances where institutions were derelict in their responsibilities to their residents. As a result it became fashionable to indict all aspects of institutional care and to claim that the rights of handicapped children were unconstitutionally violated as a result of institutional placement. As of this writing — indeed, during the course of this project — a federal court agreed that institutions were unconstitutional. Spurred by a variety of court decisions and legislative mandates, state and local agencies are hurriedly developing plans to change this situation.

The alacrity with which state and local administrators feel compelled to deinstitutionalize their clients is unfortunate, however. At this particular transition period when the mechanics of deinstitutionalization are still not well understood, the rapid transfer of large numbers of institutional people into community day schools could cause serious damage to the fragile relationship that currently exists between institutions and the communities in which they are located. There are a number of obstacles that must be confronted if institutionalized children are to be offered a decent education in community

schools. A brief discussion of some of these obstacles is now presented to alert the reader to their importance. As it will become obvious, there are no simple solutions to these problems; most will simply take time to overcome while others will be dealt with successfully through prolonged negotiations. As the reader progresses through this document (s)he will note the elaborate network of interrelationships that exist between the institution and the community, relationships that transcend the handicapped resident. Although the intent of the law was to focus on the plight of the handicapped person, attempts to comply with the law often involve individuals other than the handicapped person. Attempts to deinstitutionalize with minimum disruption will only be accompanied by detailed attention to a variety of social and economic forces that impinge on the implementation of the least restrictive environment. Among the social and economic forces which must be attended to are the following:

Community Acceptance.

Efforts to transfer successfully institutional handicapped children to community day schools must gain some measure of support from the community. This is especially true in areas where the voters are mandated by law to approve increases in school budgets. One has but to review even superficially the ratio of successful to unsuccessful efforts at raising taxes to provide additional revenue for the schools to know immediately of the great difficulty that will be faced to raise funds needed to support the deinstitutionalization effort. If voters repeatedly reject increased taxes to support programs for their own children, how much more reticent will they be to provide increased support for institutional children who are not their own and who, historically, have been viewed with anxiety and alarm?

Parental Acceptance.

One of the unwritten assumptions in the deinstitutionalization movement is the belief that the program has the support of the parents of the residents. The reasoning behind the assumption of parental approval is easy to trace. Originally, before Public Law 94-142 was passed, most of the fervor regarding school-aged retarded children centered around the misclassification and mislabeling of mildly handicapped children, most of whom were poor and members of minority groups. As a result of this fervor, and contributing to it, some parents brought class action suits against the schools to stop the practice of misclassifying children who were not retarded and should never have been diagnosed as such. Partially as a result of these suits and partially as a result of the general tenor of the times in support of securing people's basic civil rights, professionals and the courts assumed—often correctly—that parents were opposed to a segregated education for their children. But what was not often mentioned was that the movement to reduce the incidence of misclassification and the accompanying action to remove children from segregated classrooms was primarily the concern of poor, minority group parents whose children never should have been identified as retarded in the first place. It has not been demonstrated to this

writer's knowledge that parents of more substantially handicapped children are also in favor of having their children educated outside of the institution, in regular schools, or even in classes where the other children are visibly less handicapped than their own child. In fact, in this writer's experience, and in the experience of several professionals with whom he has spoken, most parents of substantially handicapped children prefer to have their children educated in segregated facilities where parents perceive (correctly or incorrectly) that their children are being provided the attention they require. It may be inaccurate to assume that parents of institutional children will support the efforts of administrators and local school personnel to provide their children with an education in community day schools, especially if the parents perceive that the school is not totally accepting the idea of educating their children.

There is an additional factor that must be considered when attempting to educate handicapped children in community schools *where their parents reside*. Some parents agonize over the decision to institutionalize their child and when they do finally decide, they then deny the existence of the child. It is not uncommon for parents never to mention the child again once he has been institutionalized. If the child is to be educated in community schools the possibility exists that he will suddenly re-emerge from the closet where he has been hidden for a number of years, much to the embarrassment of the parents. Although it is not being suggested that a child should not be sent to community schools to spare his parents additional grief, it is advisable to inform parents of the intention to send him to community schools so that they can take the necessary steps for their own peace of mind.

Personnel Apprehensions.

Attempts to deinstitutionalize handicapped children involve not only the residents but the professional and paraprofessional persons who work with them. It should come as no surprise that efforts to transfer children from the institutions to the local schools will be viewed with considerable apprehension by institutional personnel who fear that they may lose their jobs, or have their job descriptions radically changed. The transfer of institutional children to community schools will also be viewed with alarm by many school teachers who are generally apprehensive about institutional children, and by local parents who do not want their children associated with children in institutions.

The most difficult aspect of the deinstitutionalization thrust concerns the host of presently unanswered questions about institutional personnel. A number of problem areas arise. For example, institutions are usually part of the Department of Mental Health (DMH) in most states. DMH employees have their own civil service system, tenure policies, salary structures, grievance committees, and so forth. Now that state departments of education are responsible for educating all handicapped children, will DMH employees be required to conform to the licensing standards of the Department of Education rather than the Department

of Mental Health? If so, as most people seem to agree, what will happen to tenured professionals who will be forced to work for local education agencies; will they have to renounce their tenure in one governmental agency and begin again in another? Will they have to take additional coursework to obtain a state teaching certificate (or administrative certificate) which many institutional employees presently do not have? Will they have to forego their present 12-month salaries in favor of 10-month contracts which school systems usually adopt? What, if any, options are available to professionals who do not want to teach in local schools, preferring the institution instead? These are some of the questions that must be answered through negotiations among the professionals, state agencies, and the local school authorities.

Availability of Community Resources.

Although many institutional handicapped children may be able to profit from placement in the community, they may profit only when the receiving school has the available resources, e.g., material and personnel, to provide effective education for the student. If local schools do not have the necessary facilities, handicapped children may not be able to be placed in the community even if it is in their best interests.

A number of barriers could exist from the prescriptive on the local schools which include but are not confined to the following:

1. Availability of space. Many local school districts may not have the necessary space to accommodate additional children into school buildings.
2. Lack of necessary personnel. A considerable number of handicapped children require physical therapy or nursing care during the day. Many schools simply do not have these personnel on their payrolls and would have a hard time recruiting them if it were decided that they were needed.
3. Lack of appropriate transportation. Since many handicapped children are confined to wheelchairs, special buses or vans are necessary to transport them. There may not be enough of these vehicles to transport the number of children who need them.
4. Lack of suitable educational materials. The school may not have the necessary educational materials for severely handicapped children. For example, oriented or brailers are needed for blind children, portable stair cases are necessary for children who require training in walking, and so forth.

Perhaps the most important "community resources," however, are the attitudes of the local school administrators toward the placement of institutional children in community schools. Recent research on this topic suggests that there is considerable variability in principals' attitudes toward deinstitutionalizing handicapped children. Some principals are willing to accept these children into the school if they are continent, regardless of the severity of their intellectual deficit. Others want no part of children who are not likely to master even the

basic rudiments of a traditional academic curriculum. Still others might accept such children into their schools but are reluctant to do so for fear of arousing the ire of the parent body.

These preliminary data suggest that one of the first actions that should be taken when attempting to place handicapped children into community schools is to survey local school administrators regarding their tolerance for accepting children with particular skills and deficits. If administrators' areas of high tolerance for deviation can be matched with children's abilities (i.e., administrators who are willing to accept a child with no academic skills), these children will have a better probability of being placed successfully than when administrators' wishes are ignored.

Financing Deinstitutionalization.

There is no doubt that the single most pressing obstacle to the implementation of deinstitutionalization programs is the lack of appropriated funds. At this time, local education agencies do not know the number of institutional children to expect in their schools, the characteristics and needs of the children, nor the resources that are necessary to provide the children with an appropriate education. However, there is no doubt that the inclusion of additional handicapped children on the public school enrollment will substantially increase the costs of that school system. The strain of the LEA's budget will be directly proportional to the number of additional children they are required to absorb. From where is the additional money to come? Until a satisfactory answer to this question is provided there will be little progress toward providing handicapped children with an education in community schools. Of all the obstacles to effective implementation of deinstitutionalization programs, the uncertainty of financial support is by far the most compelling and the one that must be resolved before any of the other difficulties mentioned earlier in this paper can be addressed. This issue is sufficiently clear that further discussion is unnecessary.

Although there are other potential difficulties that must be considered when transferring handicapped children from the institution to the community, issues revolving around community acceptance, parental acceptance, personnel apprehensions and finance are sufficiently common—and important—that they were highlighted. There simply is no available data at present to indicate productive ways to deal with these difficulties.

Issues for Thought

The previous section of this paper was concerned with potential obstacles to the implementation of deinstitutionalization programs for the education of handicapped children between the ages of 3 and 21 years. In this section, a

couple of issues will be raised regarding the efficacy of educating institutional children in special schools in the community. Special schools are cited as the example since it appears at present that institutional children will be sent to such schools in the community to receive their education. The first issue that should be considered is whether, in fact, special schools are less restrictive than institutions, as intended by Public Law 94-142, or whether the transfer of children from the institution to the special school simply represents a change from one segregated environment to another.

From this writer's experience, it cannot automatically be assumed that deinstitutionalization represents a change which results in handicapped people going from a segregated environment to a less segregated environment. Although this is often the case it is by no means certain. Present day efforts to deinstitutionalize handicapped children often rely on the cooperation of local school authorities to supply the necessary space in community schools. Many times, the community school administrator provides a special school for institutional children. These special schools are often small, isolated, and do not have the level of supportive personnel that are available in the institution. Further, unlike many large institutions where large numbers of "normal" people come and go (approximately 100 to 150 high school children every week in one Illinois facility), few, if any, "normal" visitors are available to handicapped children in some special school facilities. In other words, if the number of normal people with whom the handicapped person comes in contact were to be employed as an index of the least restrictive environment, some institutions would appear "less segregated" than many community facilities. And although it may be true that a change of scenery will benefit handicapped children and youth, it may be possible to offer a change within the confines of the institution.

A second issue that requires thought is whether it is to the handicapped child's advantage to be shuttled out of the institution for part of the day and then shuttled back again later in the day. One of the often stated needs of educable mentally handicapped children, according to several introductory texts, was their need for structured situations, and for teachers with whom they could relate. How much more critical is it for seriously handicapped children to have structured environments? If it is critical does the transfer of children from one location to another constitute a more structured situation than simply retaining them in a single environment? Although there is no simple answer to this question, it certainly is worth some additional thought than what it has been given until now.

A third issue that must eventually be addressed concerns the type of data we have to acquire in order to decide whether placement in community day schools is advantageous to the handicapped child. What criteria are we to employ for decision-making? Also, what options will be available to community and

institutional administrators if the evaluative data suggest that handicapped children are not faring well in community schools? Is community education for institutional children to be considered an irreversible *fait accompli*, or will we be able to resurrect an institutionally-situated education if the data warrants?

These issues, as well as a host of others that will become clearer as we gain additional experience with the deinstitutional movement, must eventually be dealt with if handicapped children are truly to be provided with the most appropriate education that is possible.

CRITERIA TO DETERMINE ADEQUACY OF IMPLEMENTATION PROCEDURES

How are the Local Education Agencies (LEA's) to decide whether a particular school is sincerely attempting to provide handicapped children with the least restrictive setting possible? This question will be addressed separately for institutions and public schools, both of which have programs that are the responsibility of the LEA.

Providing the Least Restrictive Placement Within the Institution

As was previously indicated, a recent survey indicated that approximately 40 percent of the residents in one state school for the mentally retarded could not be transported to community schools for health-related reasons. This does not imply that institutional personnel are absolved from providing these children with a less restrictive environment than they presently experience. But how? What steps must an institution take to indicate that they are indeed providing a less restrictive setting to their residents?

It appears to me that in order to meet their obligations, institutions must proceed through at least three successive stages: *Awareness*, *Developing Institutional Flexibility*, and *Courting Community Involvement*. In other words, the delivery of services in the least restrictive setting requires that institutions be aware that they must change; that they actually change their programs and services for their residents; and that they involve as many segments of the community as possible. Actual delivery of services in the least restrictive environment occurs only when the third stage has been completed by the institutional personnel. Each stage is not static. Rather, each involves a continuum of action that is designed to provide the least restrictive environment for residents. The thesis here is that the provision of services in the least restrictive environment is not an either/or proposition--i.e., either the mandate is being achieved or it is not. Instead, the least restrictive environment must be viewed as the ultimate environment for which we must always strive. Until we

gain additional insights into the way that environments affect people, we are unlikely to know whether one environment is really less restrictive than another. As was suggested in the beginning of this manuscript, it is entirely possible that for some handicapped people, interactions with nonhandicapped peers may be more restrictive emotionally than interactions with other handicapped people. To provide some elaboration of the three stages, possible actions for each stage will be suggested.

Awareness

Institutional personnel must first be made aware that they are required to make whatever changes are necessary in order to achieve a less restrictive environment for their residents. In my experience, many institutional administrators believe that few, if any, changes are required by law for those residents who are not able to be transported to community facilities. If the necessary changes are to be made, there are several things that can be done at the institutional level to increase awareness. First, the administration can appoint a committee to appraise the employees that even the institutionalized residents deserve placement in the least restrictive environment possible. At the same time, the administration can invite its parent advisory board to participate in brain-storming sessions on the most effective ways to make the necessary changes. Representatives from each cottage (or unit, depending on the way that a particular institution is structured) can be asked to provide specific ideas for changing the existing routine for the residents with whom they work. In short, at this stage various concerned groups can begin to think about ways to provide less restrictive environments to the handicapped residents. But clearly, merely thinking about the issues hardly suffices. The planning and awareness sessions must lead directly to institutional change. This brings us to the second stage in the continuum...

Developing Institutional Flexibility

Although the intent of the least restrictive environment section of Public Law 94-142 was to provide handicapped people with increased contact with nonhandicapped peers, there are additional components of a less restrictive environment. One of these components involves the quality of services that a handicapped person is provided. If we adopt the definition of *least restrictive* as the environment which imposes the fewest limitations on the handicapped person's development, then an environment which results in more effective programming is less restrictive than an environment in which the programming is less than adequate.

Changing institutional programming does not require the cooperation outside of the institution. It requires that the administration adopt a flexible posture to scheduling and assignment of personnel to tasks. Although scheduling is a formidable task and a recalcitrant staff can impede change, nevertheless, if institutions are to be in compliance with the intent of the federal legislation, fairly substantial changes will be required in the quality of services that are presently available in many institutions. Examples of possible changes include: Additional personnel, additional materials for educational programming, better coordination between the educational and cottage programs, or transferring some residents to another cottage.

The point being stressed here is that *for a start* there are a number of things that can be done to foster a less restrictive environment without having to resort to community involvement, which in many communities may be difficult and time-consuming to achieve. The extent to which institutions effect change from within is a measure of their willingness to offer the residents a less restrictive environment.

Courting Community Involvement

Since the intention of the legislation was to offer handicapped persons experiences with nonhandicapped peers, institutions must attempt to involve the community in the day-to-day activities of the residents if the least restrictive environment — in a legal sense — is to be achieved.

It will probably be difficult at first to achieve effective community involvement. Institutional personnel may resent having to share some of the decision-making authority with members of the community. Similarly, members of the community may be quite anxious about getting involved with the institution that historically has been removed from community participation.

However, there are several things that can be done not only to improve community-institution ties but also to provide more normalizing experiences to the residents. First, institutional staff could speak at various community meetings, such as the Parent-Teacher Organization meetings, and at Town Meetings. Second, members of the community could be encouraged to tour the institution. More specifically, identifiable groups — such as high school students and senior citizens — could be asked to spend some time at the institution. Volunteers could be recruited from these and other groups. Also, certain community functions could conceivably be held on community grounds. Examples of such functions include the high school (or community) band recital, business picnic, flea market, and the annual corn boil (the highlight of the social season in several small Illinois communities). With a little ingenuity, townspeople could be induced to interact with some of the residents.

In summary, there are a number of things that can be done within the institution to provide less restrictive environments, not only for residents who are being transferred to community-based facilities for their education, but also for those residents whose functioning may be so limited that they cannot be removed from the institution even for brief periods of time. Implementation of the least restrictive environment can be measured along a continuum from planning and action within the institution to involvement of the community. If an LEA wished to monitor an institution's progress in implementing a least restrictive environment, these stages can be directly translated into measurable criteria. For example, a facility could be asked to keep records on the number of meetings they had, their attempts to upgrade their services, or their efforts to involve the community in institutional affairs.

With these brief caveats in mind, we now turn to the crux of the matter: Who shall be deinstitutionalized and how shall we monitor their progress?

From Institution to Community

Concerns regarding the logistics of deinstitutionalization, while important enough to affect the ultimate success of attempts to transfer children to community schools, cannot be allowed to interfere totally. At the same time that efforts are underway to overcome these obstacles, plans must be developed to decide who is to be deinstitutionalized. How do we determine who is a good candidate for placement in community schools? Obviously, there is no simple answer to this question. The answer depends not only on the characteristics of the handicapped child, but also on the resources available in the community facility.

Characteristics of the Child.

Until a few years ago, institutionalized mildly handicapped children under 21 years of age comprised a large percentage of the population at many facilities. However, as a result of the emerging trend toward deinstitutionalization during the past few years, most of the mildly handicapped residents have been transferred to various types of community facilities. Today, the bulk of the population at most institutional facilities is severely or profoundly handicapped, with many residents having multiple severe handicaps. The vast majority of present-day residents are on medication, and the majority need prosthetic aides to get around. Many of the residents have little, if any, communication skills, cannot manipulate simple objects, are not toilet trained, and can barely feed themselves. Yet, despite this bleak picture of many institutional residents, most professional workers in institutions would agree that many of the residents can profitably attend local community schools. But which ones?

This writer interviewed a number of professionals who have had considerable experience working in institutions, including physicians, psychologists, and teachers, in an attempt to gain some insights into developing a practical guide for decision-making. As a result of these interviews, two guidelines for deciding who can be deinstitutionalized are being suggested. First, children who are totally immobile to such a degree that they cannot move around even with prosthetic devices are not likely to be good candidates for transfer to community schools. Second, children for whom even modest travel might pose physical harm are not good candidates for transfer to community schools. Included in this latter category are children with certain liver ailments and children with exceedingly brittle bones. Although the percentage of children who would fall into one of the other category varies by institution, in this writer's experience the percentage is not likely to exceed 40. In other words, 60 percent of the residents in an institution are likely candidates for placement in community facilities. Again, it must be stressed that this is an estimate.

One additional point should be raised with regard to the identification of candidates for the community. Aberrant behavioral exhibitions in the institution should not be employed as a criterion to exclude certain children from being placed in the community. Various professionals have indicated the importance of the environment as influencers on the behavior of children (e.g., Gottlieb, 1978). In the context of institutions and the communities, it should not be assumed that because children engage in bizarre or anti-social behavior while they are in the institution, they will also exhibit similar behavioral patterns while they are in the community. This writer was provided with a number of examples where chronic behavior offenders were model children during visits to the community. Many handicapped children, regardless of the severity of their handicap, rise to the general level of behavior that is accepted in their immediate environment. Hence, it is not uncommon to observe an immediate decrease in inappropriate behavior exhibited by children when they enter a community store, for example, and a spontaneous "recovery" of the inappropriate behavior as soon as they return to familiar surroundings.

As was mentioned earlier, decisions regarding the inappropriate placement for handicapped children depend not only on the characteristics of the children but also on the availability of appropriate resources in the receiving schools. Unlike child characteristics which are relatively permanent, the availability of resources in the community is fluid in the sense that it can be changed fairly easily. As an example, it is a constant source of wonder how quickly space can disappear when local school authorities do not want a particular program, or how quickly space can become available when a program is wanted.

Availability of Community Resources.

Although many institutional handicapped children may be able to profit from placement in the community, they may profit only when the receiving school

has the available facilities, e.g., material and personnel, to provide effective education for the resident. If local schools do not have the necessary facilities, handicapped children may not be able to be placed in the community even if it is in their best interest.

To review the issue of who shall be deinstitutionalized, it appears reasonable that the following steps should be considered in roughly this order.

1. A determination should be made of which children cannot be moved at all for medical reasons. These children should be excluded from consideration.
2. Of the children who remain, information should be obtained on their level of performance in: (a) *cognitive areas*, such as communication, self-help skills, and so forth, and (b) *interpersonal behavior*, including such indices as being able to relate to others and the expression of self-abusive behavior.
3. Similar information regarding level of cognitive functioning and adequacy of interpersonal behavior should also be obtained for handicapped children in the community. If community handicapped children exhibit similar levels and patterns of behavioral adequacy as institutional children, the likelihood is that the institutional children can be placed in the same classes as the community handicapped children.
4. Local school administrators should be queried regarding the kind of behavioral inadequacies that they find unacceptable for their schools. If institutional children can be matched with principals' areas of tolerance for behavioral deviations, the children will have a good chance of being successfully placed.

Specific instruments to assess children's level of functioning in cognitive and interpersonal spheres are not being suggested since each institutional and community facility is unique and requires information geared to its own particular needs.

Evaluating the Adequacy of The Least Restrictive Environment

As was stated in the introductory section of this position paper, the least restrictive environment is the one which imposes the fewest limitations on the handicapped child's educational performance. But what criteria are to be employed to determine whether the severely and/or profoundly handicapped child is benefitting from placement in an environment that on the surface is least restricting because it offers opportunities for contact with nonhandicapped persons? Certainly, traditional indices of child progress such as academic

achievement are inappropriate for many children who can barely communicate, if they can communicate at all. Although there are no hard and fast indices for the identification of appropriate indices of progress, a few main indices can be suggested. These include, but are not limited to, the number of instances of real or feigned health-related complaints, extent of exploration of environment, and behavioral adequacy when the handicapped child remains on the institutional grounds.

1. *Real or feigned health-related complaints.* Many institutional children pretend to be sick in the hope of obtaining sympathy from their caretakers. This is true for moderately handicapped children as well as for severely handicapped children. Children feign headaches, seizures, and a host of other complaints to avoid going to school, doing unpleasant chores, or in the case of partially ambulatory children, walking. One criterion to employ to assess whether children are progressing is to determine whether any reduction in health-related complaints occur when children are outside of the institutional grounds. To the extent that a healthy person, or one who does not constantly maintain that he is sick, has greater potential for independent functioning than a child who is constantly complaining, this variable represents one easy to measure criterion of functioning.

2. *Exploration of the environment.* Not only is the physical mobility of many seriously handicapped children seriously impaired, their cognitive mobility or curiosity is equally, if not more, seriously impaired. It is not uncommon for many seriously handicapped children to ignore completely stimuli that are placed before them, or if they do attend to the stimuli, to do so only fleetingly. Since exploratory, or curiosity-behavior has been theorized to be one of the important ways that a person gains mastery over his environment (e.g., Berlyne, 1964), this variable can be used as an index of "intellectual functioning" in everyday situations for many seriously handicapped children. For children who are less handicapped, more conventional academic indices of cognitive performance are available to assess this important dimension.

3. *Behavioral adequacy.* One of the most common complaints about handicapped children in institutions is that they misbehave. At times, long and expensive treatment programs designed to correct certain behavioral deficiencies result in a temporary change of behavior. When the handicapped child's behavior reverts back to its pre-treatment level, the child is said to have regressed to a more primitive state of behavior. School teachers, cottage personnel, social workers, psychologists, and medical personnel have all borne witness to such regression at one time or another and have evaluated the behavior as a "regression". The extent to which the child does not exhibit these behavioral regressions can be used as an index of behavioral adequacy. If the child is placed in an environment that is appropriate, we could expect fewer instances of behavioral regression, as evaluated by his caretakers.

4. *Quality and intensity of educational programming.* The fourth, and final, evaluative criterion to judge the adequacy of the least restrictive environment for severely and profoundly handicapped children is the quality of educational programming that is provided. Although all handicapped children, in institutions or public school facilities, are required by law to have IEP's developed for them, the mere availability of a written document provides few clues as to the adequacy of their daily educational program. Careful and continuous monitoring of the daily educational exchange between the teacher and the handicapped child is essential if we are to be in a position to understand the quality of education provided to the child. This writer has recently completed a study of the educational programming provided to handicapped children in institutions and community school facilities. Both educational facilities had equally well developed IEP's and it was not possible to differentiate the institutional and community groups from a cursory review of the written IEP documents. Periodic site visits to both facilities (usually two mornings a week) were necessary to reveal very substantial differences in the way the IEP was translated into educational practice.

In other words, the argument can be advanced that the environment which is least restrictive is the one where the child is provided with an educational plan that is directly translated into ongoing programming. Further, the programming should have a measurable impact on the child's functioning, either in traditional academic areas, such as communication skills, for the higher level children, or in other areas mentioned previously for lower ability children.

Summary

To summarize the concerns for evaluating the least restrictive environment for institutionalized retarded children, I outlined a number of problems that must be addressed before any realistic attempts can be made to concentrate on the problems of the handicapped persons. Money and space in the community are absolutely critical concerns that in my experience have been so overwhelming that they have precluded administrators from seriously considering the needs of the handicapped persons. Until these issues are resolved, realistically, little will happen to promote less restrictive environments. The concerns and needs of the institutional and community parents are also very important topics that must be considered in any attempt to place institutionalized children into the community. It should not automatically be assumed that parents of institutional children are totally in favor of deinstitutionalization. For example, at a recent meeting in which I was in attendance, the parents of the institutional children cried out for better programming. They didn't particularly care whether the programming was executed in the institution or the community.

Among the variables that could be used to judge whether handicapped children are in the environment which is least restrictive to their development, I suggested examining their health-related complaints, the extent to which they explore their environment, the general level of their behavioral adequacy, and the actual quality of the daily educational program that they receive.

LEAST RESTRICTIVE SETTINGS IN PUBLIC SCHOOLS

As was mentioned previously, the majority of handicapped children in public school programs are considerably less seriously handicapped than those who remain institutionalized. The goals for mildly handicapped children are, therefore, different from those for severely handicapped children. Most frequently, the goals for handicapped children have been directed toward improving their social functioning. For example, educable mentally retarded children have been found to be deficient in social skills and these deficiencies, rather than their limitations in cognitive areas, have been the main reason for their difficulties in holding a job when they become adults. Similarly, children classified as behaviorally disordered are often proficient academically. Their primary needs are in the area of inter- or intra-personal functioning. Also, learning disabled children often have social difficulties that are brought on by their academic difficulties. These handicapped children who comprise the vast majority of handicapped children in public school facilities require an environment which fosters improved social functioning. In other words, the adequacy of an educational environment for these children can be determined by the extent to which they adapt socially to the demands that are placed on them. The task, then, of evaluating the least restrictive environment for handicapped children in public schools is to identify the environment which promotes social adaptation. But how is this to be accomplished? What criteria do we employ to determine a child's social adaptation to his environment? We will attempt to answer these questions after we first indicate precisely what is meant by social adaptation. However, we will first consider procedures to monitor the implementation of the least restrictive placement in a public school context.

Providing the Least Restrictive Environment Within a Public School

It is considerably easier to monitor progress in implementing less restrictive environments in public schools than in institutions. For one important difference between institutions and community public schools is the fact that we have accumulated considerable experience in providing a variety of placements for public school children, but have had less experience with institutions. For another reason, Deno (1971) published her Cascade Model a few years ago, and

many schools use this model to decide the extent to which one placement is more or less restrictive than another. Deno's model, however, did not differentiate among various educational placements within the institution, nor did she concern herself with accommodations between the institution and the community public school.

Yet, another reason why we are in a better position to determine the quality of placement in public schools rests with the close relation between IEP's and placement in the least restrictive environment. As part of the IEP, school personnel are required to indicate the extent to which a handicapped child can participate in the regular education program of his school. The development of an IEP requires the involvement of a variety of school personnel and the consent of the parent. Thus, a wide range of inputs are solicited for the IEP, part of which indicated the least restrictive placement for the child. Public schools have had many years experience in "case conferencing" children. Although these case conferences may have been somewhat different than the law presently prescribes, nevertheless many schools have marshalled a variety of personnel to diagnose and place a child. Institutions, for the most part, have not had — and still do not have — the capability of gathering a number of different professionals to do a work-up on a child. This capability will certainly come, but it will take time. In short, public schools have had more experience in deciding on appropriate placements for handicapped children.

The Deno Cascade Model is sufficiently well known that it does not have to be repeated here. Schools can identify the extent to which they are placing children in the least restrictive environment by simply referring to that model. However, the Deno model interprets *least restrictive* solely from the vantage of placement with nonhandicapped children. It omits completely any examination of the quality of educational programming that is provided to the handicapped child. From the present vantage, the least restrictive environment also offers the most appropriate education for the handicapped child. Therefore, in order for schools to monitor effectively the quality of placement, they must have some information on the quality of education that the handicapped child receives.

One measure of educational quality which schools can easily obtain is the extent to which the handicapped child receives individual attention from his teacher. Continua can be established which reveal the number of children in a group at any one time, and the amount of time for which the group receives academic (or nonacademic) instruction. For example, if a handicapped child is seen individually by a special education teacher for 30 minutes per day, three days each week his index of educational quality (quantity) could be computed as $1/1 \times 30 \times 3$, or 90 units. On the other hand, a handicapped child who is seen by a specialist teacher in groups of 8 for 1 hour each day, five days a week would obtain a score of 37.5 ($1/8 \times 60 \times 5$). Although this approach to determining education quality (using quantity of individual attention) is based on the untested assumption that there is a linear relation between the size of an

instructional group and the amount of attention a child receives, it does provide at least a gross estimate of the amount of instruction that a handicapped child receives. Obviously, this general approach for computing instructional delivery can be used to calculate noninstructional activities which are directed toward handicapped, or nonhandicapped, children. Additionally, the measure can be easily modified to include the ratio of nonhandicapped to handicapped children in the group. To illustrate, a group of 10 children, eight of whom are handicapped, would require that a multiplier of $4 \text{ (} 8/2 \text{)}$ be included in the equation previously described. In order to complete the preceding equation, two additional variables must be included: the age of the handicapped child, and the severity of his handicap. Younger children and children with more serious handicaps may not be able to benefit from as much individual attention as older children or children with less serious handicap. Therefore, the age of the handicapped child and severity of his handicap must be quantified and included in the equation if the intent is to develop a numerical index of placement in the least restrictive environment. What this equation does is provide greater detail than the usual teacher-child ratio which is most often confined to expressing the number of children in a class. It affords the parent (or any other consumer) greater insight into the quality of education that the child receives.

Thus, when attempting to determine the extent to which a handicapped child is being provided the least restrictive environment, two criteria can be used. First, the handicapped child's program on the continuum suggested by Deno can be examined, and/or second, the amount of time that the handicapped child receives instructional attention can be computed, using the simple equation that was suggested. This equation can also be used to indicate the extent to which the handicapped child participates with nonhandicapped children.

A more general framework for considering placement in the least restrictive environment can be presented as we indicate a model of social adaptation. The model indicates not only the areas of functioning that we could examine to determine whether a child is performing appropriately in his placement, but also suggests more specific variables that could be studied to evaluate the appropriateness of the placement.

AN EDUCATIONAL PERSPECTIVE ON SOCIAL ADAPTATION

In the simplest sense, a child's social behavior is adaptive when he is able to interact successfully with other people in his educational environment. In other words, social adaptation refers to patterns of behavior that enable the retarded child to present himself to others in a positive light, and to achieve desired results from the encounter. This interpersonal orientation to the study of adaptive behavior in school is based on the assumption that the handicapped

child's observable behavior is a major determinant of successful adaptation. The handicapped child's observable repertoire of academic and nonacademic behavior attracts social consequences insofar as it influences the way he interacts with others, and the way others interact with him. The dynamic quality of interpersonal behavior that the child exhibits signifies to others whether he is a person with whom they wish to interact, befriend, ignore, or reject. Put another way, the observable behavior of the child is self-labeling: it labels him either as a competent, likeable individual who is worthy of attention, or as an unworthy individual who is to be ignored or overtly rejected.

It is sufficient to consider a handicapped child's behavior as socially adaptive solely on the basis of his own manifestations. Other participants to the social encounter must be considered when making such judgments, as must the social context in which the interaction occurs. A behavioral expression can be socially adaptive when directed toward one person but not another, and similarly, appropriate in one context but not another, even when directed toward the same individual. A simple illustration is the child who calls out to the teacher during a silent reading exercise and is greeted with a considerably different reaction than when he calls out during a free play period. Few would disagree that learning when to engage in certain behavior and when not to is itself a critical element of adaptive behavior.

A handicapped child's behavior occurs in a variety of social environments, even within the narrow range of environmental options imposed by the school organization. Depending on the particular structure and rules governing an individual school, handicapped children may interact with handicapped peers in regular classrooms, resource rooms, gymnasiums, lunchrooms, and corridors. Different behaviors are expected in different settings, and school personnel allow varying degrees of latitude for deviations from expected behavior in each: running may be acceptable in the gym, whispering in the corridors, and silence in the classroom. Each setting provides the handicapped child with a platform from which to display different behavior, one that is being scrutinized constantly by peers and teachers alike, who use it to form impressions of the youngster.

The possibility that children can adapt differently to the many educational settings illustrates the complex, multidimensional nature of social adaptation. At least four sets of influences could shape the quality of children's successful social adaptation in school: (a) the child's observable behavior, (b) characteristics of the peer group, (c) the observable reactions of the teacher who establishes and enforces norms of appropriate behavior for her class, and (d) the environmental setting. To the extent that we examine singular and interactive effects of these influences, our knowledge of handicapped children's adaptation in school will be greatly increased from its present state in which we know that he is the victim of negative stereotypes and social rejection (Gottlieb, 1975a), but have only vague guesses as to why this is. In this discussion, I will focus my remarks on the

handicapped child's observable behavior and the nature of the environmental setting.

BEHAVIOR OF THE HANDICAPPED CHILD

Although there may be some general behavioral patterns common to many mentally retarded children, for the most part each handicapped child is unique and behaves in idiosyncratic ways. The distinct stimulus cues that each child emits are constantly evaluated by others, who then use the information to form elaborate and durable portraits of him. The ease with which these portraits are constructed and the durability of their existence has been commented on by several authors, and has been experimentally validated (Kleck, Richardson, & Ronald, 1974). A handicapped child can be considered to be in the least restrictive environment when his observable behavior does not single him out for special (negative) attention and does not interfere -- or interferes least -- with his educational performance.

While there is a variety of ways to classify the general characteristics and behaviors of handicapped children that could affect the quality of their interpersonal performance and adaptation to their environment, an elegant and useful framework was suggested by Richardson (1975) in his discussion of the ways handicapped people become identified. According to Richardson, people may be identified as handicapped on the basis of their behavior, appearance, and/or movement. His framework is employed in this discussion with a slight modification. From the present vantage, a handicapped child's social participation in his classroom is influenced by the quality of his *interactive behavior*. A few of the myriad ways that interactive behavior could affect the retarded pupil's social experiences are discussed below.

INTERACTIVE BEHAVIOR IN THE CLASSROOM

There is little doubt that the way one person behaves with another influences how he is perceived and reacted to by that other person (Gottlieb, 1975b). In question is which specific behavioral act, or series of acts, has the greatest impact on the ongoing flow of interaction. Surprisingly, very little research has been concerned with handicapped children's overt behavioral interactions in the classroom. Most studies of handicapped children's behavior have used rating scales to obtain measures of behavioral performance. In this way, two broad categories of children's behavioral performance have been studied as they might influence other people's perceptions: low academic performance or general intellectual dysfunctioning (Dentler & Mackler, 1962) and perceived misbehavior (Gottlieb, 1975b, 1975c; Johnson, 1950).

It is immediately obvious, however, that general intellectual dysfunction and/or a general measure of misbehavior are very broad descriptors that lack the necessary specificity to describe particular overt acts that occur during a social encounter. The most effective way to understand the importance of cognitive dysfunction and misbehavior as contributors to social performance is to narrow the range of behaviors that are subsumed under each category and to identify the most salient individual acts that comprise the larger categories.

Overt Indices of Cognitive Dysfunction

It is superfluous to say that many handicapped children exhibit poor cognitive performance. A more pressing concern is to describe observable patterns of cognitive dysfunction. Although there are many ways to organize a taxonomy of cognitive dysfunctions, for the present purposes it will be useful to consider those aspects of behavior that are easily observed during a social encounter and are likely to be used by other participants to evaluate the desirability of the individual. For the sake of simplicity, we will consider retarded children's verbal and nonverbal communication skills as overt indices of cognitive dysfunction. This compact taxonomy is presented to illustrate the potential importance of these categories as influencers on handicapped children's social adaptation in class. Although considerable research has been reported on verbal communication, such as language, very little research has dealt with the social consequences of language in the classroom or elsewhere.

Verbal Communication Skill.

One of the central axioms of social encounters is that people want to present themselves in the most favorable light possible. This is often achieved through their facility with verbal communication skills. People communicate for many reasons — to transmit information and feelings, and to evoke approving responses from others (Argyle, 1969). Unfortunately, many handicapped people, especially mentally retarded people, are often deficient in verbal communication skills. Deficiencies in speech skills, such as in levels of complexity and articulation, as well as in comprehension skills, are clear signs that a person is functioning below an expected norm and is somehow "different" from other people.

Handicapped children's verbal communication abilities are deficient in a number of ways that could adversely affect their social encounters. They typically have higher incidences of speech pathologies (Spradlin, 1963), make more grammatical errors (Carlton & Carlton, 1945), have a more limited vocabulary (Harrison, Budoff, & Greenberg, 1975), and generally have delayed language acquisition. Furthermore, they often have a variety of communication deficits involving the use of linguistic codes, and may not be aware that variants of these codes are employed in different social settings. For example, while it may be

acceptable to use the vernacular when speaking to friends, it may not be with the teacher. To present himself as a competent individual worthy of acceptance, the child may have to demonstrate that he is competent in the use of linguistic codes and that he is able to use codes appropriately in many social settings.

The point emphasized here is that a handicapped child's verbal facility has consequences beyond the role of verbal learning and concept formation skills. Verbal communication skills are likely to exert strong influence on the pupil's social interaction with his peers and research is needed to increase our understanding of the dynamics of these influences. In the context of the present discussion, the least restrictive environment is one in which the child's verbal communication skills are promoted and encouraged. The classroom environment which offers the handicapped child the opportunity to develop proficient communication and language skills is the one that is less restrictive to his development.

Nonverbal Communication Skills.

There are many ways other than verbal dialogue that people can present themselves to others. During social interaction between two or more people, a number of nonverbal signals occur in parallel with verbal cues, and taken together, represent the totality of the communication. It is conceivable, however, that nonverbal cues alone, especially inappropriate cues, are salient and communicate sufficient information for others to decide how much they value the retarded person.

There are a number of nonverbal interactive behaviors that both handicapped and normal children could exhibit that would be self-labeling when they are inappropriate. For example, there are culturally prescribed, though not formally codified, rules governing the appropriate use of hand and facial gestures, bodily posture, interpersonal space, eye gazing, nonverbal aspects of speech such as intonation, speed, and so forth, as well as positive reinforcers such as nodding approval. Mehrabian (1971) demonstrated how variations in one participant's nonverbal behavior toward another influenced the latter's verbal and nonverbal behavior.

A number of questions arise when attempting to apply our knowledge of nonverbal aspects of behavior to handicapping conditions. One concern is whether the range and appropriateness of handicapped children's nonverbal behavior is equivalent to their handicapped peers'. Although very little research effort has been directed toward nonverbal aspects of handicapped children's behavior and few definite answers are available, the likelihood is that handicapped children are not so competent as their nonhandicapped peers at expressing or interpreting certain nonverbal affective behavior. At issue is whether the handicapped child realizes the function that nonverbal behavior serves—that the nonverbal messages he emits are interpreted by others as true reflections of the way that he feels.

People interpret a child's frown as an indication that he is sad or angry, and his smile as an indication that he is happy. However, there is little evidence to the veridicality of the child's nonverbal behavior and the message he wishes to communicate. If the handicapped child's nonverbal expressions are not veridical with the intent of his communication, his social interactions will undoubtedly suffer. As an example, the child who does not adopt an appropriate facial expression to indicate that he is sorry for his past infractions is likely to displease his teacher and exacerbate the situation.

Overt Indices of Misbehavior

The second major category of behavior that has been studied as it relates to the way handicapped children interact with others is the antisocial/aggressive behavior they are perceived to exhibit. Since the child's social adaptation in school is likely to be influenced in large part by the extent of his social acceptance or lack of rejection, a child who misbehaves is not likely to be socially acceptable to his peers and consequently is not likely to adapt socially to the demands of the classroom group.

Various investigators have suggested that a handicapped child's social functioning suffers because he misbehaves (Baldwin, 1958; Johnson, 1950); the research evidence on this point is not clear, however.

An illustration of the complex nature of relationships between perceived misbehavior and social status is evident in a study by Gottlieb (1975b). The study examined correlates of social acceptance and rejection of 324 EMR children who attended one of 152 schools. The results showed a significant correlation between teachers' and peers' ratings of EMR children's perceived misbehavior and the EMR children's social rejection scores, but no significant correlation between teachers' and peers' ratings and the children's social acceptance scores. Perceived cognitive ability was found to relate significantly to social acceptance. These data suggest that (a) social acceptance and social rejection are not two ends of a single continuum but may represent two distinct continua, (b) attempts to decrease retarded children's social rejection should concentrate on reducing their perceived misbehavior while attempts to increase the social acceptance of retarded children should concentrate on improving their perceived academic competence, and (c) greater attention should be paid to the precise acts by retarded children that are perceived as misbehavior by their nonretarded peers. From this perspective, some specificity can be gained by examining two categories of misbehavior: (a) inappropriate or bizarre behavior, and (b) aggressive behavior directed toward another person. The relative contribution of each of the two categories may be worth examining as contributors to a handicapped child's social rejection and implicitly to his failure to adapt to the social demands of his environment.

The Environmental Setting

The second key consideration in determining whether a handicapped child is being placed in the least restrictive environment is the nature of the environment itself. Identical child characteristics, such as those discussed previously, may result in the child receiving an appropriate education in one classroom but not another. In other words, the characteristics manifested by the handicapped child interact with the nature of the environment in which he is situated, and taken together may constitute an appropriate environment for that child. The environmental determinants which are of especial importance in deciding whether the handicapped child will be appropriately placed are: (a) the nature of the peer group, and (b) the behavior of the teacher.

Nature of the Peer Group.

It is intuitive that a handicapped child must be placed in a classroom where he will not be socially ostracized by his classmates. Almost invariably, handicapped children suffer from social and emotional difficulty that accompany their cognitive difficulties, and one of these difficulties is their inability to get along with peers. The lack of social acceptance by peers may be one of the reasons why handicapped children often misbehave, i.e., the continued frustration of not being socially embraced by classmates results in the handicapped child lashing out at his peers.

As was indicated previously in this paper, however, existing data does not support the assumption made by educators that mainstreaming would improve the social acceptance of handicapped peers. In fact, the majority of data suggest that mainstreamed handicapped children are socially rejected more often than when they remained in self-contained classes. Under such circumstances, there is only a remote likelihood that mainstreaming will result in improving the social adjustment of handicapped children. If handicapped children are to be socially accepted by their classmates, they must be placed in a classroom environment that actively promotes such acceptance.

What kinds of classrooms can promote the social acceptance of handicapped children? Available evidence suggests that a warm, supportive classroom in which there are not children with a clearly assigned inferior social status are accompanied by somewhat higher social acceptance of handicapped children (Safer, Corman, & Gottlieb, in press). In practical terms, these data indicate that handicapped children should be placed in regular classrooms where the children do not display obvious antagonism toward each other.

There are other considerations that are important in deciding which classroom peer groups are likely to promote the handicapped child's educational performance. These considerations include the child's own socioeconomic background compared with those of his classmates, his race, sex, and level of

academic deficiency compared with those of his classmates. However, the general level of friendship among class members appears to be an especially important variable that is manipulable within the context of the regular classroom, as has recently been demonstrated by Ballard, Corman, Gottlieb, and Kaufman (1977). Many of the other variables that impinge on social status such as sex and race distributions cannot be easily manipulated given the everyday realities of school.

Behavior of Regular Class Teacher.

Just as the handicapped child should not be socially ostracized by his nonhandicapped peers, it is even more critical that he not be socially ostracized by his classroom teacher. Unfortunately, empirical evidence suggests that regular class teachers are not usually accepting of handicapped children in their classes (e.g., Shotel, Iano, & McGettigan, 1972). One reason for these negative feelings is that regular class teachers often feel inadequate in their ability to deal with handicapped children (Guerin & Szatlocky, 1975). As a result of these feelings, regular class teachers seldom provide the required individual attention that handicapped children often need (Agard, 1977). While it is easy to suggest that handicapped children should be placed only in classrooms where the teachers are accepting of them, this is not always practical. Often, the accepting teachers have three or four handicapped children in their classes while nonaccepting teachers have none. Instead of relying solely on teachers' acceptance levels, a good strategy for placing handicapped children is to enroll them in classrooms where the teacher has a known history of successful experiences with her children. This strategy is based on the assumption that teachers who are confident of their ability to teach children will be less fearful than other teachers of their ability to teach handicapped children. Building principals usually have good insights into the ability of their teachers, and should be able to make these decisions quite well.

It should be emphasized that an adequate placement for a handicapped child involves detailed knowledge of behavior (both cognitive and social) and the environment into which he is being placed. Without both sets of information, it is doubtful that schools will be able to demonstrate convincingly that the child is indeed being placed in the environment that is least restrictive for him.

Summary and Conclusions

Several criteria for monitoring and evaluating placement in the least restrictive environment were presented separately for institutional children and children currently enrolled in public schools.

Placement in the least restrictive environment for children residing in institutions involved several considerations. First, several criteria to determine whether

institutional personnel were making a good faith effort to identify the least restrictive placement were suggested. These criteria included the convening of meetings to address the problem, adopting more flexible programming within the institution, and involving various segments of the community. The second consideration for determining whether institutions were placing children in the least restrictive environment was identifying the criteria to evaluate success of placement. Among the criteria suggested were: (a) a reduction in the number of real or feigned health-related problems of the residents, (b) the extent to which the resident explores his new surroundings, (c) the resident's level of behavioral adequacy, and (d) a measure of the quality and intensity of educational programming that each resident receives.

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SECTION IV

Integration of Severely Handicapped Students Toward Criteria for Implementing and Enforcing the Integration Imperative of P.L. 94-142 and Section 504

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INTRODUCTION

Nicholas Hobbs has called P.L. 94-142 "the most conservative piece of social legislation adopted by the Congress in 50 years." At the heart of the new and binding national policy on the education of handicapped children, articulated in P.L. 94-142, in its predecessor 1974 EHA Amendments and in Section 504 of the Rehabilitation Act of 1973, the Congress has placed the integration imperative.

In plain language, the Congress in P.L. 94-142 has required the States to establish

procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions, are educated with children who are not handicapped . . . 20 U.S.C. Sect. 1412(5)(B)

In Section 504 of the Rehabilitation Act of 1973, the Congress extended to handicapped persons *verbatim*, the protections extended to racial and national origin minorities by Title VI of the Civil Rights Act of 1964, namely:

No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The task of this paper is to suggest concrete, operational criteria to measure compliance with the integration imperative. It will suggest criteria to ascertain whether compliance is occurring by scrutinizing both (1) the education of each *individual* handicapped child and (2) the structure and performance of a school system, both local school districts (LEA) and state-wide education departments (SEA).

The first task in defining implementation and enforcement criteria is to determine *what compliance is*. What is it that the integration imperative requires? If the legal requirement is fully implemented, what state of facts will obtain — what will school systems look like and where and how will the schooling of individual handicapped children proceed? Then criteria can be articulated to measure the achievement of compliance — whether, and to what degree compliance has been achieved, and how further the achievements of compliance can be advanced, and, in the language of P.L. 94-142, "assured."

The first task therefore is to determine the meaning and the content of the integration imperative. As Mr. Justice Oliver Wendell Holmes, Jr. wrote long ago:

The Legislature has the power to decide what the policy of the law shall be.

and if it has intimated its will, however indirectly, that will should be recognized and obeyed.

Johnson v. United States, 164 F. 30, 32(1st Cir. 1908) (on circuit). To determine the meaning of the statutes, the starting point is "the plain language of the statute itself," *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 420 (1968); in addition, one must look to the historical context of the statute, *Territory of Hawaii v. Monkichi*, 198, U.S. 197, 211 (1903), previous related legislation, *Burmet v. Harmel*, 287 U.S. 103, 108 (1932), the overall legislative scheme or plan, *United States v. Katz*, 272 U.S. 354, 347 (1926), the evil the statute was designed to remedy *Rectr* *loly Trinity Church v. United States*, 143 U.S. 457, 463-65 (1892), the sp the legislation, *United States v. Guaranty Trust Co.*, 280 U.S. 478, 485 (1930), and its legislative history, *Federal Trade Commission v. Mandel Bros., Inc* 359 U.S. 385, 388 (1959).

Thus, for the purposes of determining precisely the meaning of the integration imperative and its scope, Chapter I of this paper will examine:

1. the historical contest of P.L. 94-142 and Section 504;
2. the legislative history of the enactments, including
3. the social and educational facts, of which Congress took note, upon which the Congress based the integration imperative, and in light of which it must be applied;
4. the court cases which generated P.L. 94-142 and Section 504, and to which the Congress had reference;
5. the court cases, and the federal regulations interpreting and applying P.L. 94-142 and Section 504.

As the reader will see, being very clear about the meaning of the statutes' integration imperative sharpens considerably *the focus of implementation and enforcement*. For example, frequently in discussion of the statutes some one will say that P.L. 94-142 and Section 504 require a "continuum of educational settings", from mainstreamed classrooms to special schools. It is true that P.L. 94-142 and Section 504 contemplate a variety of educational settings for handicapped children and perhaps the variety can accurately be called a "continuum." However, analysis of the meaning of the statutes shows that certain settings are generally impermissible under the law, e.g., segregated special education centers and institutions. Thus, implementation and enforcement can focus, e.g., on the necessity of moving self-contained special classes to school settings where non-handicapped children are being educated, and, straightforward measures of compliance, or non-compliance, become possible, e.g., counting the number of handicapped-only facilities, goals and timetables for converting.

Analysis of the meaning of the statutory imperative clarifies *the respective*

*functions of two LRE implementation devices: (1) individual-by-individual least restrictive environment (LRE) determinations, required in the P.L. 94-142 Regulations on LRE §121 a. 550ff; and as a part of each and individualized education plan (IEP), §121 a. 346 (d), and (2) systemwide planning, construction and assignment and application plans, of LEAs and SEAs, Regulations §121 a. 132, §121 a. 601, §121 a. 227, §121 a. 232, §121 a. 236. As a practical matter, the first device can and often does function to assure placement in the most integrated setting *among the settings available* for the appropriate education of a particular individual. Individualized determination procedures should, but as a practical matter usually do not, function to change the number and kind of alternative settings which are in fact available — whether by phasing out impermissible settings or by generating an increased number and kind of mandated integrated settings. The burden of changing what is available must be discharged by systematic planning, reporting and enforcement mechanisms. The integration mandate cannot be implemented by individualizing devices alone. It must be enforced directly upon the LEAs and SEAs by measuring and correcting the kind of settings which are available in each local and state school system, for absent serious enforcement what is available will be used. And what is available departs significantly from what must be.*

The fact is, as Brown, Wilcox, Sontag, Vincent, Dodd & Grunewald, "Toward the Realization of the least Restrictive Educational Environments for Severely Handicapped Students," *Review, American Association for the Education of the Severely/Profoundly Handicapped*, vol. 2, No. 4, p. 196 (December, 1977) point out:

While there may appear to be a continuum of service delivery options available, the predominant models currently in use are self-contained schools on the grounds of residential facilities and self-contained private and public schools.

The Congress has required that that reality be changed. Thus focused, Chapter II of this paper will seek to specify implementation and enforcement mechanisms necessary and sufficient to accomplish the mandated integration.

CHAPTER I: THE MEANING OF THE INTEGRATION IMPERATIVE

1. The Historical Context of P.L. 94-142 and Section 504

On several counts Nicholas Hobbs' estimation of P.L. 94-142 is surely correct. That statute, and Section 504, are profoundly conservative (1) in the place they give parents and children in the design and direction of public education; (2) in their reversal of patterns of separation and isolation imposed upon disabled people since the mid-19th century; and (3) in their affirmative

valuation of the competences, however discounted heretofore, of all people including disabled people.

The immediate professional context of these enactments — the history of mid-twentieth century discoveries (or rediscoveries) of the capacities of disabled people, of teaching and learning techniques to evoke those capacities and the more or less wide distribution of knowledge of those techniques among school people, and other service agents in our society — is well known to the readers of this paper, as the legislative history of 94-142 and Section 504, show it was well known to the Congress, and will not be repeated here. See, e.g., Council for Exceptional Children Policies Commission, "Organization and Administration of Special Education", *Exceptional Children*, 1971, vol. 37, pp. 428-33; Roos, "Trends and Issues in Special Education for the Mentally Retarded," *Education and Training of the Mentally Retarded*, Vol. 5, No. 2 (April, 1970); Stevens & Heber, *Mental Retardation: A Review of Research*, especially the chapters by Kirk, Denny, and Goldstein (1964); Goldberg and Lippman, *The Right to Education: An Anatomy of the Pennsylvania Case* (Columbia Teachers College Press, 1973). See generally, Weintraub, Abeson, Ballard & Lavor, *Public Policy and the Education of Exceptional Children* (C.E.C., 1976).

The expression of these themes in the law is less well known. Each of them was articulated more than fifty years ago by the United States Supreme Court in *Meyer v. Nebraska*, 262 U.S. 390,399-401 (1923) the first right to education case, striking down a war-time statute which forbade schooling in German:

(T)he liberty guaranteed . . . by the Fourteenth Amendment . . . denotes not merely freedom from bodily restraint but also the right of the individual . . . to acquire useful knowledge . . .

The American People have always regarded education and acquisition of knowledge as matters of supreme importance which should be diligently promoted . . . Corresponding to the right of control, it is the natural duty of the parent to give his children education suitable to their station in life, and nearly all the states enforce this obligation by compulsory laws.

(T)he right of parents to engage (a teacher) to instruct their children (in German) is within the liberty of the Amendment. (T)he legislature has attempted (unconstitutionally) to interfere . . . with the opportunities of pupils to acquire knowledge, and with the power of parents to control the education of their own.

Mr. Justice McReynolds, the most conservative Justice ever to sit on the Supreme Court, joined together themes of parental influence, integration, and an individualized appreciation, and pursuit, of the competence of all people. Taking Plato's Ideal Commonwealth as his counterpoint, McReynolds wrote:

For the welfare of his Ideal Commonwealth, Plato suggested a law which should provide: "That the wives of our guardians are to be common, and their children are to be common, and no parent is to know his own child, nor any child his parent The proper officers will take the offspring of the good parents to the pen or fold, and . . . will deposit them with certain nurses . . . but the offspring of the inferior, or of the better when they chance to be deformed, will be put away in some mysterious, unknown place, as they should be.

But, for the Court, Justice McReynolds declared:

Although such measures have been deliberately approved by men of great genius, their ideas touching the relation between individual and State were wholly different from those upon which our institutions rest; and it hardly will be affirmed that any Legislature could impose such restrictions upon the people of a State without doing violence to both the letter and spirit of the Constitution.

The constitutional presumption, thus, is inclusive, individualizing, and integrative. For an extended discussion of this case and of the more recent education cases which informed the Congressional enactments, see Gilhool, "PARC, Lau Rodriguez, and Individualized Education", *Cross Reference: A Journal of Public Policy and Multicultural Education*, vol. 1, No. 1, p. 23 (J. B. Lippincott Company, 1978).

Twenty-five years ago, in *Brown v. Board of Education*, the Supreme Court again articulated the themes and applied them to bar the segregation of school children by race. The unanimous *Brown* Court said:

[Education] is required in the performance of our most basic responsibilities. . . . It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later . . . training, and in helping him adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the state has undertaken to provide it, is a right which must be made available to *all on equal terms*. (Emphasis added)

John W. Davis, counsel for the State of South Carolina in *Brown*, had anticipated the application of *Brown's* integration ruling to disabled children.

Opposing integration, he opened his argument to the *Brown* Court,

May it please the Court, I think if appellants' construction of the Fourteenth Amendment should prevail here, there is no doubt in my mind that it would catch the Indian within its grasp just as much as the Negro. If it should prevail, I am unable to see why a state would have any further right to segregate its pupils on the ground of sex or on the ground of age or on the ground of mental capacity.

L. Friedman, ed. *Argument* 51 (1969).

Indeed in the pre-Brown cases, before it ruled that separate schooling was inherently unequal, the Court had struck down segregation by race in terms and/or reasons which apply directly to segregation of disabled people. In *Sweatt v. Painter*, 339 U.S. 629, 634 (1950), striking down segregated law schools, the Court had said:

[A]lthough the law is a highly learned profession, we are well aware that it is an intensely practical one. The law school, the proving ground for legal learning and practice, cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned. The law school to which Texas is willing to admit petitioner excludes from its student body members of the racial groups which number 85% of the population of the State and include most of the lawyers, witnesses, jurors, judges and other officials with whom petitioner will inevitably be dealing when he becomes a member of the Texas Bar. With such a substantial and significant segment of society excluded, we cannot conclude that the education offered petitioner is substantially equal to that which he would receive if admitted to the University of Texas Law School. (Emphasis added)

In *McLaurin v. Oklahoma State Regents*, 339 U.S. 637, 641-42 (1950), striking down segregation in graduate schools of education, the Court had said:

The State, . . . , sets McLaurin apart from the other students. The result is that appellant is handicapped in his pursuit of effective graduate instruction. Such restrictions impair and inhibit his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession."

It may be argued that appellant will be in no better position when these restrictions are removed, for he may still be set apart by his fellow students. This we think irrelevant. There is a vast difference -- a Constitutional difference -- between restrictions imposed by the state which prohibit the intellectual commingling of students, and the refusal of individuals to commingle where the state presents no such bar . . . The removal of the state restrictions will not necessarily abate individual and group predilections, prejudices and choices. But at the very least, the state will not be depriving appellant of the opportunity to secure acceptance by his fellow students on his own merits.

We conclude that the conditions under which this appellant is required to receive his education deprive him of his personal and present right to the equal protection of the laws. (Emphasis added)

For a discussion of the requirements of equal protection in education and in other services to disabled people, see Gilhool, "The Right to Community Services", chapter 7 in President's Committee on Mental Retardation, *The Mentally Retarded Citizen and the Law*, 172 (M. Kindred, et al. eds., The Free Press, 1976) and see *Halderman, et al. v. Pennhurst State School and Hospital*,

F. Supp. (E. D. Pa. 1977) (C. A. No. 74-1345, Slip Opinion of December 23, 1977, pp. 53-64, 67-69).

That disabled people, including disabled children, are citizens of these United States and are entitled to the protections extended to citizens is now established beyond doubt. See Karst, *The Supreme Court 1976 Term — Forward: "Equal Citizenship Under the Fourteenth Amendment*, 91 *Harvard L. Rev.* (Nov., 1977).

2. The Legislative History of P.L. 94-142 and Section 504.

The Fourteenth Amendment of the Constitution provides "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." Section 5 of the Fourteenth Amendment provides, "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." In enacting Section 504 of the Rehabilitation Act of 1973, the EHA Amendments of 1974 and the EAHCA of 1975, the Congress acted pursuant to this Fourteenth Amendment's power to enforce the Equal Protection Clause, as the legislative history of each enactment and the express words of the preambles of P.L. 94-142 — that it was adopted "in order to assure equal protection of the law", P.L. 94-142 §3 (b) (9).

The three statutes are to be read together *Kruse v. Campbell*, 431 F. Supp. 180, 185-86 (E. D. Va., 1977) (three judge court) vacated and remanded for a decision on §504, rather than constitutional grounds, 98 S. Ct. 38 (1977). See also Analysis of Final Regulations Under Part B. EHA, 42 Fed. Reg. 42504 (August 23, 1977); Background and Analysis of Final Regulations under Section 504, 42 Fed. Reg. 22677 and 22690 (May 4, 1977).

What then does the legislative history of Section 504 and P.L. 94-142, and its predecessor 1974 EHA Amendments, show to have been the purposes of the Congress and the meaning of the provisions which require (in P.L. 94-142 and its predecessor):

Procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions, are educated with children who are not handicapped. 20 U.S.C. Section 1412 (5) (B).

(and in Section 504):

no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Section 504.

Section 504 of Title V of the Rehabilitation Act of 1973 was adopted unanimously by the Congress (1973 Congressional Quarterly Almanac, page 557 et seq.) and signed into law by the President on September 26, 1973.*

Section 504 tracks verbatim the provisions of Title VI of the Civil Rights Act of 1964** and extends to all handicapped people the protections long extended on grounds of race and national origin, namely, the prohibition of exclusion, of denial of benefits and of discrimination under any federally assisted program or activity. Like Title VI, Section 504 has legislated the requirements of the constitutional norms of equal protection.

The Congress' choice of Title VI language suggests that the integration imperative is central to Section 504, as it has been to all other Civil Rights Acts.

The legislative history of Section 504 itself confirms that the Congress intended that this Civil Rights Act should end the segregation of handicapped people.

Section 504 was originally introduced in 1971-72 as a bill to include the handicapped in the Civil Rights Act of 1964. Introducing the bill in the Senate on January 20, 1973, Senator Humphrey, its primary sponsor there, *** said:

I introduce . . . a bill . . . to insure equal opportunities for the handicapped by prohibiting needless discrimination in programs receiving federal financial assistance

The time has come when we can no longer tolerate the invisibility of the handicapped in America I am calling for public attention to three-fourths

*For purposes of Title V of the Act, "handicapped individual" is defined as:

[A]ny person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment. 29 U.S.C. Section 706(6).

**Title VI, 42 U.S.C. Section 2000d provides:

No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

***The statements of a bill's sponsor as to legislative purpose are entitled to great weight. *Brennan v. Corning Glass Works*, 480 F. 2d 1254, 1260-61 (3rd Cir. 1973), *Gartner v. Solner*, 348 F. 2d 348, 353 (3rd Cir. 1967).

of the Nation's institutionalized mentally retarded, who live in public and private residential facilities which are more than 50 years old, functionally inadequate, and designed simply to isolate these persons from society

These people have the right to live, to work to the best of their ability -- to know the dignity to which every human being is entitled. But too often we keep children, whom we regard as 'different' or a 'disturbing influence' out of our schools and community activities altogether Where is the cost-effectiveness in consigning them to . . . 'terminal' care in an institution?

[M]ore than 1 million children are denied entry into public schools, even to participate in special classes. The National Association for Retarded Children reports, for example, that only 48 percent of the 94,000 educable mentally retarded school age children and youth in Ohio are provided for in the public school system, with the rest being in private schools or not in any school program. . . .

We do not even have adequate statistical information on the great number of physically handicapped children who have the mental ability to attend [public] school but are denied that right. The variety of explanations for this denial include problems of transportation and architectural barriers. But the injustice of exclusion remains

These are people who can and must be helped to help themselves. That this is their constitutional right is clearly affirmed in a number of recent decisions in various judicial jurisdictions.* (Emphasis supplied). 118 Cong. Rec. 525 (January 20, 1972).

*Senator Percy, the co-sponsor of the bill, referenced in his statement, 118 Cong. Rec. 526, a concurrent resolution he had introduced the previous November, 117 Cong. Rec. 42293-94 (November 19, 1971) and which was based upon the United Nations Declaration on the Rights of Mentally Retarded Persons, adopted by the United Nations General Assembly on December 20, 1971 (2027th Plenary meeting). That concurrent resolution provided in relevant part:

(2) A mentally or physically handicapped person has the right . . . to such education, training, rehabilitation, and guidance as will enable that person to develop his ability and potential to the fullest possible extent, no matter how severe his or her degree of disability

(4) A mentally or physically handicapped person has a right to live with his or her own parents or with foster parents, to participate in all aspects of community life, and to be provided with appropriate leisure time activities.

Senator Percy's statement on the resolution, like Humphrey's on the bill, emphasized that "it is intolerable to hide the handicapped" in institutions which were created in the last century out of a belief that the handicapped were "hopelessly incapable", and which provide "little more than physical sustenance" at a very high cost for the lifetime of a mentally handicapped person", when it was now established that "even the most severely handicapped" can learn and thrive, if the proper services are provided, in a community environment.

In a statement delivered September 26, 1972, Senator Humphrey illuminated the bill's targeted class:

[T]his bill correctly emphasizes the need to serve more severely handicapped individuals, to make services responsive to individual needs, and to make every effort to enable handicapped persons to lead a productive and financially independent life. *Cong. Rec.* 32310.

On March 22, 1972, announcing additional co-sponsors, Senator Humphrey again addressed the bill and its purposes.

This bill responded to an awakening public interest in millions of handicapped children, youth, and adults who suffer the profound indignity and despair of isolation, discrimination and maltreatment. It is essential that the right of these forgotten Americans to equal protection under the laws be effectively enforced

[T]he fundamental fact that one confronts is . . . the segregation of millions of Americans from society - suggesting a disturbing viewpoint that these people are not only forgotten but perhaps expendable. (Emphasis supplied). *118 Cong. Rec.* 9495.

The point of the bill, Senator Humphrey said, is made precisely in a *Washington Evening Star* series entitled "The Expendables" which lay before the public "the true story of exclusion and inadequate concern experienced by the handicapped in the Washington area," a state of facts the bill was intended to correct. At the center of the story, laid before the Congress by Senator Humphrey, *118 Cong. Rec.* 9498. 9500-01, was the following:

The lack of community resources is keeping institutions for the mentally retarded filled above capacity The new movement in other states of developing group home - small living units in the community for the retarded - is just beginning in the Washington area.

The deliberate segregation of the handicapped and their resulting invisibility have led to their traditionally low rating on the priority list of educational and community programs.

Beyond the inadequate funding, the incomplete programs for the handicapped in public schools, and the sorely neglected state institutions, there is a larger issue at stake these days. It deals with the basic relationship between handicapped people and the so-called 'normal society.'

So far, what has become known as the 'normalization principle' is usually discussed when dealing with the retarded, the largest category of handicapped people, but its implications apply to other handicaps as well.

The principle has been defined by Bengt Nirje, a specialist on the retarded in Sweden, where the principle is being practiced, as 'making available to the

mentally retarded patterns and conditions of everyday life which are as close as possible to the norms and patterns of the mainstream of society.'

[M]any specialists in the field of educating handicapped children agree that children at the trainable or moderately retarded level do not need *special classes*. But . . . *that the traditional approach of segregating these children in separate schools or isolated classes within regular school buildings . . . is wrong.*

The isolation of the moderately retarded dates from a time when educators felt that because children of this level of retardation often look and act differently from normal children they should be sheltered for their own good or the 'protection' of normal children.

[S]pecialists argue that if the objective of education for the retarded — or for the deaf, blind and physically handicapped children — is to give them every chance to live as normal a life as possible in society, they must have early and frequent contacts with normal children.

Society has found it easy to segregate the handicapped, because it does not view the hidden and invisible people as a direct threat. Handicapped children are unlikely to ever march on the school board and retarded adults have never been known to stage a revolt in a state institution. (Emphasis supplied).

On September 26, 1972, Senator Humphrey noted the incorporation of the protections and prohibitions of the bill to amend the 1964 Civil Rights Act into a bill amending the Rehabilitation Act, and again articulated the bill's overriding purpose:

I am deeply gratified at the inclusion of these provisions which carry through the intent of the original bills . . . *to end the virtual isolation of millions of children and adults from society.* 118 Cong Rec. 32310. (Emphasis supplied).

Congressman Vanik, the primary sponsor of the bill in the House, articulated the very same purposes to the bill. On December 9, 1971, introducing the bill, 117 Cong. Rec. 45974-75, Congressman Vanik stated its purposes and the evils it was meant to remedy, as follows:

In an effort to provide *increased assistance and equal opportunity* for the handicapped of our Nation, I am today introducing legislation to provide equal treatment of the handicapped in all programs which receive Federal assistance . . .

The masses of the handicapped live and struggle among us, often *shunted aside, hidden and ignored*. How have we as a nation treated these fellow citizens?

"In the past, the reason for excluding these children from their right to an education has never been very clear. At times, handicapped children were seen as a physical threat or as uneducable. In one case a court ruled that a cerebral palsied child, who was not a physical threat and was academically competitive, should be excluded from public school, because his teacher claimed his physical appearance 'produced a nauseating effect' on his classmates.

Today the handicapped are generally a hidden population. . . But the time has come when we can no longer tolerate the invisibility of the handicapped in America. (Emphasis Supplied)

In the Rehabilitation Act Amendments of 1974, the Congress redefined the term "handicapped individual" as used in Section 504, in order to clarify the scope of 504's coverage, 29 U.S.C. Section 706(5). In so doing, the Congress reaffirmed its intention in Section 504 to reach "all of the many forms of potential discrimination" against handicapped individuals, S. Rep. 93-1297, p. 38; 4 U.S. Code Cong. & Admin. News 6389 (1974). The Congress made explicit what was implicit throughout the earlier legislative history, namely, that "where applicable, Section 504 is intended to include a requirement of affirmative action as well as a prohibition against discrimination." S. Rep. at 39; 4 U.S. Code Cong. at 6390. And the Congress gave explicit recognition that Section 504 creates a private right of action:

The section. . . constitutes the establishment of a broad government policy that programs receiving Federal financial assistance shall be operated without discrimination on the basis of handicap. . . [I]t is clearly mandatory in form. . . and [would] permit a judicial remedy through a private action." S. Rep. at 40141; 4 U.S. Code Cong. at 6390-91.

P.L. 93-380

Report No. 93-805 of the House Committee on Education and Labor accompanying P.L. 93-380 to the floor of Congress stated the intention of the legislation, at the same time focusing on "high priority" children, that is to say, the children, among all, provided no education for the longest period of time:

Since 1967 the states have been required under section 613(a) of the Education of the Handicapped Act to maintain a plan for the education of handicapped children. This amendment requires that the plan now include all handicapped children. 1974 U.S. Code Cong. & Adm. News, 4146

[G]ood education programs are an investment rather than merely an expenditure of funds, for even the most severely handicapped child can be made less dependent through education. Given the opportunity, such children can become self-sufficient, productive members of our society, rather than remaining dependent on society. Therefore, from both a humanitarian and an economic standpoint, it is obvious that an adequate education should be made available now for all handicapped children.

The inability of the states to provide for more than 40% of these handicapped children and the higher cost of education for the severely handicapped places a critical responsibility on the Federal Government to share costs with states and local communities and be the catalytic agent which stimulates activity for the handicapped. The Committee feels a strong responsibility to see that these individuals receive the educational services they need.

To encourage desegregation of existing facilities (primarily residential institutions), the Committee recommended:

allow[ing] each state, for the purposes of determining its [financial] allotment to continue to count children who leave educational institutions supported by the state, provided that the special educational services continue to be provided. It is the Committee's hope that this provision will afford the greatest encouragement to "the states to initiate and accelerate programs designed to de-institutionalize as many of these children as possible. (Emphasis supplied) Id. at 4115.

In P.L. 93-380, Congress articulated the integration imperative, by requiring state plans submitted for federal funding include provisions and procedures to insure handicapped children are "to the maximum extent appropriate, educated with those who are not handicapped." That expression was generally lauded on the floor, with most Congressional debate focused on the funding formula.

P.L. 94-142

Senate Report No. 94-168 of the Committee on Labor and Public Welfare accompanied the bill, co-sponsored by twenty-eight Senators, 121 Cong. Rec. 510962, to the floor of the Senate on June 18, 1971. 1975 U.S. Code Cong. & Adm. News 1425. That Report stated:

This legislation was originally introduced as S. 3514 on May 16, 1972. It followed a series of landmark court cases establishing in law the right to education for all handicapped children. Since those initial decisions in 1971 and 1972 and with similar decisions in 27 States, it is clear today that this "right to education" is no longer in question.

In 1954, the Supreme Court of the United States established the principle that all children be guaranteed equal educational opportunity. The Court stated: "In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity . . . is a right which must be made available to all on equal terms." (*Brown v. Board of Education*)

More recently the Federal cases of *Pennsylvania Association for Retarded Children v. Pennsylvania* and *Mills v. Board of Education of District of Columbia* were decided. These court rulings guarantee the right to free publicly-supported education for handicapped children and have resulted in similar court actions in the State and Federal courts throughout our Nation. S. Rep. 94-168, p. 6.

"The Education Amendments of 1974 incorporated the major principles of the right to education cases", S. Rep. 94-168, p. 8 recites, including requiring the States to "establish procedures to insure that to the maximum extent appropriate handicapped children. . . are educated with children who are not handicapped." The Committee (at p. 9) underscores its intention to assure compliance:

Parents of handicapped children all too frequently are not able to advocate the rights of their children because they have been erroneously led to believe that their children will not be able to lead meaningful lives. However, over the past few years, parents of handicapped children have begun to recognize that their children are being denied services which are guaranteed under the Constitution. It would not, however, be necessary for parents throughout the country to continue utilizing the courts to assure themselves a remedy. It is this Committee's belief that the Congress must take a more active role under its responsibility for equal protection of the laws to guarantee that handicapped children are provided equal educational opportunity. It can no longer be the policy of the Government to merely establish an unenforceable goal requiring all children to be in school. S. 6 takes positive necessary steps to insure that the rights of children and their families are protected.

Senator Randolph, the chairman of the Subcommittee on the Handicapped opened debate. Because of the bill's integration requirement, he emphasized the importance of "inservice training of *general and special educational personnel*" (emphasis supplied). "Continuous training", he said, "is virtually necessary. . ."

Teachers must receive training that not only provides technical assistance necessary to teach handicapped children, but also deals with the potential problem of attitudinal barriers. 121 Cong. Rec. 810960.

Senator Stafford, the ranking minority member of the Subcommittee highlighted, 121 Cong. Rec. §10961, three provisions of the bill, first, the individual planning conferences, with respect to which he noted especially their usefulness to the teacher given the integration mandate:

As we look more and more toward children with handicaps being educated with their 'normal' peers, we must realize and try to alleviate the burden put upon the teacher . . . It is hoped that participation in these conferences will have a positive effect on the attitude of the teacher toward the child, and an understanding of the child's problems in relating to his or her peers because of a handicapping condition. (Emphasis Supplied)

Second, he called attention to the priority the bill gives to "those with the most severe handicaps who have traditionally received only minimal attention." In emphasizing the priority to severely handicapped children, Senator Stafford, as others throughout the legislative history, did *not* say or suggest or even hint that the severely handicapped were excepted from the integration imperative. Indeed, exactly in the context of the severely handicapped, he immediately proceeded to note the bill's provisions "for the removal of architectural barriers so that children may attend *the same schools* which children without such handicaps may attend", and to adumbrate the reasons for the integration provision:

For far too long handicapped children have been denied access to the regular school system because of an inability to climb the steps to the schoolhouse door, and not for any other reason. This has led to segregated classes for those children with physical handicaps. This is an isolation that is in many cases unnecessary. It is an isolation for the handicapped child and for the 'normal' child as well. The sooner we are able to bring the two together, the more likely that the attitudes of each toward one another will change for the better.

I firmly believe that if we are to teach all of our children to love and understand each other, we must give them every opportunity to see what 'different' children are like.

If we allow and, indeed, encourage handicapped children and nonhandicapped children to be educated together as early as possible, their attitudes toward each other in later life will not be such obstacles to overcome. A child who goes to school everyday with another child who is confined to a wheelchair will understand far better in later life the limitations and abilities of such an individual when he or she is asked to work with, or is in a position to hire, such an individual.

Senators Cranston and Mondale reiterated those themes, 121 Cong. Rec. §10981. Senator Mondale, in articulating the central problem to be corrected by the Congressional judgment of the traditional relationship between segregation of handicapped children and the adequacy of their schooling, made explicit the bill:

In the past, many children have simply been *placed in institutions or segregated in schools and classes* with little emphasis on adequate education and training. (Emphasis Supplied)

See also Senator Dole's remarks on segregation at 121 Cong. Rec. §10977. The Senate passed the bill, 83 to 10. 121 Cong. Rec. §10983.

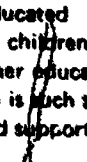
The House considered its bill on July 29, 1975. 121 Cong. Rec. H7750 ff., passing it on a vote of 375 to 44. Congressman Miller, a ranking member of the House Committee on Select Education, noted the bill's "safeguards against the unnecessary placing of nonhandicapped children (sic) in segregated classes", 121 Cong. Rec. H7764, and articulated the presumption of value that the Congress (in sharp distinction to the then Secretary of HEW) attached to integration:

Lastly I would like to mention the incredulity with which I read of Mr. Weinberger's reluctance to endorse the concept of mainstreaming children, that is, the placing of handicapped children in the least restrictive educational environment. It seems to me that the logic which he employs on the final page of his letter to Mr. RHODES, 'the assumption of mainstreaming children *always* represents the most effective means of educating handicapped children has not yet been shown,' is extremely faulty. I do not believe that the burden of proof should be upon that administrator or teacher who seeks to permit the handicapped child to remain in a normal classroom with his peers.

Rather, I believe the burden of proof in terms of the effectiveness of a program ought to rest with that administrator or teacher who seeks for one reason or another to remove a child from a normal classroom, to *segregate him or her from nonhandicapped children*, to place him in a program of special education. (Emphasis added)

The Joint Explanatory Statement of the Conference Committee (S. Conf. Rep. No. 94-455; 1975 U.S. Code Cong. & Adm. News 1480 ff.) makes clear that the Conference Committee's acceptance of the House language in the definition of "special education" which includes reference to "instruction in hospitals and institutions" was *not* intended to legitimate institutions or other segregated centers as sites for schooling handicapped children:

The Conferees point out that while instruction may take place in such locations as classrooms, the child's home, or hospitals and institutions, the delivery of such instruction must take place in a manner consistent with the requirements of law which provide that to the maximum extent appropriate handicapped children must be educated with children who are not handicapped, and that handicapped children should be placed in special classes, separate schooling, or any other educational environment only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and supportive services cannot be achieved satisfactorily.



S. Conf. Rep. No 94-455 at page 30; U.S. Code Cong. & Adm. News at 1483. Similarly, with respect to the provision allowing an SEA to serve children directly in "state or regional centers"

... conferees specifically point out that serving children in State or regional centers must be done consistent with provisions of existing law which require that to the maximum extent appropriate, handicapped children are educated with non-handicapped children, and special classes, separate schooling, or other removal from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The Conference Report and the bill on final passage came before the House on November 18, 1975, 121 Cong. Rec. H11346 ff., and the Senate, 121 Cong. Rec. S20426 ff., on November 19, 1975, Congressman Brademas, Chairman of the House Sub-Committee on Select Education, noted that the bill "requires that the Commissioner of Education conduct directly or by grant or contract investigations and evaluations to assure effective implementation of the program including the collection of data on . . . the number of children moved from a regular classroom environment". Congressman Gude sounded again the basic themes, ending the enforced isolation of handicapped people:

Mr. Speaker, for years, handicapped citizens of this country have been kept in the dark, deprived of a free, full public education.

There is no question that previous emphasis on institutionalization were not only dehumanizing, but neglected the basic precept that these persons have the same rights as other human beings. Most importantly, institutionalization more often than not effectively prevented any chances for a handicapped individual to perform productive work or to engage in any other meaningful occupation to the fullest possible extent of his capabilities.

121 Cong. Rec. H11350. Invoking Lincoln, Congressman Michel noted:

The courts in this country have been recognizing the inherent discrimination against handicapped in recent years, and so we now find ourselves in a position where massive new sums of money are going to have to be spent, by someone, on special education. The Constitution, the courts are saying, requires it, for no one is going to suggest an amendment making the handicapped officially second-class citizens. So it must be done.

121 Cong. Rec. H11351. Congressman Daniels, having just previously celebrated the priority accorded "the most severely handicapped children within each disability classification", went on to celebrate the integration imperative and again to articulate the reasons for it:

I am also pleased with the provision of the conference report that assures that handicapped children will receive the educational benefits of this program in

the company of children who are not handicapped. Of course, practical limitations will have to be set on this participation, but the provision strongly underscores my own personal conviction that handicapped children must be made to feel that they are a useful and appreciated component of American society. Further, I believe the opportunity to share learning experiences with handicapped children will broaden the personal growth of classmates who are not handicapped. Lessons of patience, understanding and the ability to provide peer encouragement are just as valuable as traditional educational lessons to the future citizens of this nation . . . (Emphasis added)

. . . Mr. Speaker, I strongly urge my colleagues to join me in supporting and voting for this legislation which will provide the right to a good education to those children, who, through fate or circumstance, have entered life a little less fortunately endowed than we would wish. This legislation will provide the opportunity for those children to reach their educational potential and to develop their personal talents and capabilities.

Mr. Speaker, education of our children is the best investment this country can make. And education of our children means all of our children. This legislation will help provide the tools of education and self-sufficiency to children who need and deserve our help, and I urge its passage by this House."

121 Cong. Rec. H11353. Whereupon, the bill was adopted 404 to 7.

In the Senate, Senator Williams, the principal author of the bill, restated its integration imperative:

The provisions of existing law are retained with respect to the establishment of procedures to insure that handicapped children are educated with children who are not handicapped,

121 Cong. Rec. §20432, and delineated the structures established for implementation and enforcement:

The conference report . . . establishes the State educational agency as responsible for the provision of free appropriate public education to all handicapped children in the state; and

Creates an accountability mechanism for State educational agencies and local educational agencies by requiring a State plan and local applications in order to receive Federal funds.

121 Cong. Rec. §20430. Behind the bill, Senator Williams said, lay constitutional notions of equality:

The Constitution provides that all people shall be treated equally, but we know that, while all youngsters have an equal right to education, those who live with handicaps have not been accorded this right. This measure fulfills the promise of the Constitution that there shall be equality of education for all

people, and that hand'capped children no longer will be left out.

It fell to Senator Stafford to express the normalizing intentions of the Congress — all children are to be included in schooling, and they are to be included in an evenhanded and integrating fashion:

This is the day that handicapped children and their parents can point to and say that this Congress — their Congress — recognized as a matter of national policy, the equal protection under the law that they have always deserved.

In this Nation, in this society, a right to an education is not a great deal to ask. That right should be guaranteed. For those estimated seven million unserved handicapped children and their parents, it should be an everyday fact, not a legal matter. It is a pattern that every normal child expects to wake up to five days a week. So should the handicapped child.

It is part of the rhythm of life in this country, an unconscious assumption, that our children will be educated. So should it be for the handicapped child and his parents. It must not be, for them, a court battle.

Those children have hopes and dreams and desires to achieve in some measure, just as do their normal peers. They should not have to go to court — as they have had to in 27 States — to assure for themselves something that for everyone else is part of the pattern, the rhythm, the assumptions of everyday life . . .

I think that today Congress makes a very important statement. It makes a necessary statement of principle about how we intend our handicapped children to be treated in the educational process. Unfortunately we cannot by that or any other statement, change the attitudes of those who would equate "handicap" with "inferior." Attitudes and prejudices cannot be legislated away. They will only be changed by the good will of men. This statement that we make will help because it is designed to bring our children together, those with and without handicaps to try to undo the prejudice in education.

3. The Social and Educational Facts Found by the Congress

The legislative history of the three enactments shows an acute awareness by the Congress of the long history of separation and isolation — segregation, in a word — imposed upon disabled people. The separation out of disabled children into remote, self-contained institutions, and in the school systems, when a disabled child was included at all, their separation into special centers or special classes, often into church basements, the oldest-building-in-the district, or other inferior facilities where few resources were accorded their education was the factual pattern central to the consciousness of the Congress and defined the evil the Congress meant to change.

At the time the Congress acted, and long since, "79% of all first admissions to

institutions were of persons under twenty . . . ; institutionalized adults came mostly from the ranks of those admitted as children." Earl Butterfield, "Some Basic Changes in Residential Facilities, chapter 1 in PCMR, *Changing Patterns in Residential Services for the Mentally Retarded* (Kugel & Shearer, Eds., Rev. Ed. 1976). Indeed, the "right to education" cases had been brought exactly to secure integrated, community alternatives for disabled children and to alter this pattern. I. Goldberg & L. Lippman, *The Right to Education: An Anatomy of the Pennsylvania Case* (Columbia Teachers College Press 1973). The long and still current history of the segregation of disabled people, its bases and its costs, is treated in D. J. Rothman, *The Discovery of the Asylum* (1971); W. Wolfensberger, *The Origin and Nature of Our Institutional Models* (1969); ten Broek & Matson, "The Disabled and the Law of Welfare", 64 *Calif. L. Rev.* 810-16 (1966); Burgdorf & Burgdorf, "A History of Unequal Treatment: The Qualifications of Handicapped Persons as a 'Suspect Class' under the Equal Protection Clause", 15 *Santa Clara Lawyer* 855 (1955); Gilhool, "The Right to Community Services" in PCMR, *The Mentally Retarded Citizen and the Law* 173-182 (Kindred et al. Eds. 1976). See also, *PARC v. Commonwealth of Pennsylvania*, 343 F. Supp. 279 (E. D. Pa. 1972).

To trade the institution for segregated facilities operated by school systems was not the Congressional intention. A component of the stereotype and prejudice which historically attends disabled people is, of course, the view that disabled people cannot learn or function productively. The responding, and piercing, legislative fact found by the Congress in the 1974 and 1975 Education Acts is that "developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local agencies can and will provide effective special education to meet the needs of handicapped children." P.L. 91-230, Section 601; P.L. 94-142 Section 3b(7); 20 U.S.C.A. Section 1401 note "Congressional Findings". In short the Congress found that all disabled children, however severely disabled, can learn and can function in society.

The same Congress which was considering the Education Acts also enacted the Vocational Rehabilitation Act of 1973. There the Congress in an historic reversal of more than fifty years' practice in vocational rehabilitation required that priority be given in vocational rehabilitation services to "those with the most severe handicaps". 29 U.S.C.A. Section 701(1) and (6). The legislative fact behind that enactment was not only that severely disabled people can learn but that, given proper training, they can learn productive vocational skills and "engage in gainful employment". *Id.* Further, the same Congress in Section 503 of that Act, 29 U.S.C. Section 793 required government contractors to take affirmative action to employ disabled people, including the severely disabled. Thus, the Congress which enacted Section 504 and the Education Acts had firmly in its consciousness the counter-stereotype fact that severely disabled people, with proper schooling, can function in integrated and productive fashion

in society, and indeed predicated the integrated schema of the legislative acts upon just that finding.* For rigorous, professional statements of these capacities of severely handicapped people for productive work. See, e.g., H. Goldstein "Social and Occupational Adjustment" in Heber & Stevens, eds., *Mental Retardation* 214-58 (1964) (supplemented annually in *Mental Retardation Research Abstracts*; M. W. Gold, "Research on the Vocational Habilitation of the Retarded", in Ellis (Ed.) *International Review of Research in Mental Retardation*, Vol. 6 (1973); Bellamy, Peterson and Close, "Habilitation of the Severely Profoundly Retarded: Illustrations of Competence" *Education and Training of the Mentally Retarded*, Vol. 10 (1975), pp. 174-186; T. G. Bellamy (Ed.) *Habilitation of Severely and Profoundly Retarded Adults, Reports from the Specialized Training Program*, Monograph No. 1, (1976).**

Thus by Section 504 and the Education Acts Congress intended to reverse the segregation to which disabled children and adults had historically been subjected and, cognizant of the counter-stereotype possibilities of an integrated, more or less normal life for disabled people, the Congress intended to mandate governmental behaviors consistent with and advancing integrated normal lifestyles. The fabric of the legislative history, recited earlier, shows three

*The White House Conference on Handicapped Individuals Act, P.L. 93-516, 29 U.S.C.A. Section 701 N., enacted December 7, 1974 by the same Congress reiterates the finding P.L. 93-516, Section 301(6) recites:

The Congress finds that . . . it is essential that recommendations be made to assure that all individuals with handicaps are able to live their lives independently and with dignity and that *the complete integration of all individuals with handicaps into normal community living, working and service patterns be held as the final objective.*

See also Section 301(4).

**The analogous empirical literature showing from extensive cross-cultural studies the capacity of severely and profoundly handicapped persons for integrated community living and showing systematically that the quality of life in small-scale, integrated community settings is "strikingly" superior to the quality of life in institutions, whatever their size includes King, Raynes & Tizard, *Patterns of Residential Care: Sociological Studies in Institutions for Handicapped Children* (1971) (England); McCormack, Balla & Zigler, "Resident Care Practices in Institutions for Retarded Persons: A Cross-Institutional, Cross-Cultural Study", 80 *Am. J. of Mental Deficiency* 1-17 (1975) (United States and Scandinavia), and Kushlick, "Wessex, England", chap. 19 in *PCMR, Changing Patterns in Residential Services for the Mentally Retarded*, 297-312 (Rev. Ed., Kugel & Shearer, eds., 1976). These studies disprove the stereotypical notion that severely disabled are fit and proper candidates for segregation in large institutions with the finding that small scale facilities are especially important to the severely disabled for with them there is even a greater premium on individualized attention. E.g. McCormack et al. at 14-15.

Congressional judgments lay behind this integration imperative:

1. Integration is important in the education of all handicapped children, because whatever the severity of their disability modelling is a crucial mechanism in their learning.
2. Given that the education of handicapped children is intended to be education for a lifetime lived in integrated fashion in the community, integrated education is important so that handicapped and non-handicapped children may truly know each other, as children and as adults.
3. Given the long history of prejudice and stereotype, of consigning (from Plato through the present) the disabled to inferior facilities and inferior services, integration, i.e., the education of handicapped children with non-handicapped children, is a necessary and felicitous and more or less self-executing insurance that handicapped children will receive their equal due.*

In the preamble to the Education of All Handicapped Children Act of 1975, as to its predecessor, the Congress expressly found:

more than half of the handicapped children in the United States do not receive

*For example, the parents of non-handicapped children will not tolerate the education of their children in church basements (and indeed absent the stereotype that hangs over handicapped children, no one — in this day at least — would even conceive it was o.k. to educate children in church basements). Thus, if handicapped children are educated with non-handicapped children, they will not be in church basements. For example, the parents of non-handicapped children, unburdened by the defeat imposed by stereotype, will not as a general matter tolerate grievously poor teaching. If handicapped and non-handicapped children are being educated together, handicapped children will not be grievously poorly taught. If it be objected to this last example that the teaching of handicapped children requires different skills, the answer is, perhaps, but even so if those different skills are not present, then the handicapped children not being well taught will "disrupt" the education of the non-handicapped children, and the grievous poor teaching of the handicapped children will, as a general matter, be corrected on that count alone. As the Supreme Court said in *Ingraham v. Wright*, 97 S.Ct. 1401, 1412 (1977) in another, but not unrelated, context: "The openness of the public school and its supervision by the community afford significant safeguards against the kinds of abuses for which the Eighth Amendment protects the prisoner."

That is to say, attention to the quality of general education by parents, teachers, and school boards must necessarily advance the quality of teaching for handicapped children, when they are integrated with non-handicapped children, because the standards, personnel, and programs for handicapped children although not the same as those for non-handicapped children, are an integral part of the education that all children and their parents are exposed to and thereby affect the overall quality of education in the same way for example that school transportation, non academic services, or other component parts affect the overall quality.

appropriate educational services which would enable them to have full equality of opportunity;

one million of the handicapped children are excluded entirely from the public school system and *will not go through the educational process with their peers; . . .*

because of the lack of adequate services within the public school system, families are often forced to find services *outside* the public school system, often at great distance from their residence and at their own expense;

it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

And in preamble Congress articulated its purpose thusly:

It is the purpose of this Act to assure that all handicapped children have available to them, . . . a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.

20 U.S.C.A. Section 1401 N.

The integration imperative is thus crucial to all of the purposes of the Acts — to achieving effective education for handicapped children, and to preparing handicapped children, and non-handicapped children alike, for life in a world which includes disabled people. It is not consistent with the Congress' intentions, with its findings of fact or with the judgments of the Congress clear in the words of the enactments and express from the legislative history, to maintain segregated, handicapped-only special education centers or schooling in segregated, handicapped-only institutions. Just as learning facts so profoundly influenced the Congress in its formulation of the statutes, their imperatives take on clear and concrete meaning and must be implemented in light of learning facts. Under the statutes any degree of segregation can be maintained only if it is *necessary* to the appropriate education of a child. There is no cognizable reason under the statutes — that is, no *learning* reason and no *disability* reason — for handicapped-only centers, certainly not on the scale they now exist. If a child can come to a school at all, even to a self-contained class in a handicapped-only center, he can come to a self-contained class in a normal school. Any teaching technique that can be used in a self-contained class can be used in a self-contained class located in a regular school building. There are few if any legitimate teaching strategies which require the complete isolation of a child from interaction with other children, and the few such strategies that there may be apply to very few children and for very short periods of time. Such strategies

do not require massive segregated centers or massive institutions. The "continuum" of school settings permissible under the statutes, thus includes regular class (and all its variations) and special classes (and all their variations) located in school buildings where non-handicapped children are also schooled and, for those few children whose disability precludes their moving for the short period of time that will be true, instruction in the home (whether the family home or an institution "home").

Brown, Wilcox, Sontag, Vincent, Dodd and Grunewald, "Toward the Realization of the Least Restrictive Educational Environments for Severely Handicapped Students", *Review, The American Association for the Education of the Severely/Profoundly Handicapped*, Vol. 2, No. 4, p. 195 (December 1977) states the learning reasons for schooling handicapped children with children who are not handicapped. Not surprisingly they are the very reasons the legislative history shows moved the Congress to enact the integration imperative. Brown, Wilcox, Sontag, Vincent, Dodd and Grunewald say:

Long-term, heterogeneous interactions between severely handicapped and nonhandicapped students facilitate the development of the skills, attitudes, and values that will prepare both groups to be sharing, participating, contributing members of complex, postschool communities. Stated another way, separate education is not equal education.

Segregated service delivery models have at least the following disadvantages:

1. Exposure to nonhandicapped student models is absent or minimal;
2. Severely handicapped students tend to learn 'handicapped' skills, attitudes, and values;
3. Teachers tend to strive for the resolution of handicapping problems at the expense of developing functional community-referenced skills;
4. Most comparisons between students are made in relation to degrees of handicap rather than to the criteria of nonhandicapped performance;
5. Lack of exposure to severely handicapped students limits the probability that the skills, attitudes, and values of *nonhandicapped* students will become more constructive, tolerant, and appropriate.

Certainly, it is possible that interaction may not take place even if severely handicapped students are in the physical presence of nonhandicapped students. However, unless severely handicapped and nonhandicapped students occupy the same physical space, interaction is impossible In the future, severely handicapped students, upon the completion of formal schooling, will live in public, minimally segregated, heterogeneous communities, where they will constantly interact with nonhandicapped citizens. Thus, the educational experience should be representative and help prepare both severely handicapped students and nonhandicapped students to function adaptively in integrated communities.

D. Hambleton & S. Ziegler, *The Study of the Integration of Trainable Retarded Students Into A Regular Elementary School Setting 14* (Research Department,

Metropolitan Toronto School Board, 1974) write:

The most relevant criterion for assessing the models appears to be an educated prediction about the eventual level of social integration the trainable mentally retarded child may achieve in adult life. If one believes the trainable mentally retarded adult will inevitably be institutionalized, or at the best be able to function only within a thoroughly protected home environment, separate schooling facilities are likely to be favored.

The Congress had made its predictions — and mandated a new, integrated shape to the adult life of severely disabled people. And it has placed the schools under a concomitant integration imperative in the choice of settings for schooling severely disabled children.

4. The Judicial Decisions Which Generated Section 504 and P.L. 94-142

The Congress frequently referenced the court decisions in *PARC v. Commonwealth of Pennsylvania*, *Mills v. D. C. Board of Education*, *Wyatt v. Stickney*, *New York State Association for Retarded Children v. Rockefeller* (the Willowbrook case), and *Diana and Larry P.* and the managers of Section 504 and the Education Acts were express that they intended to make the rules of those cases the positive law of the land. 117 Cong. Rec. 45974-75 (1971); 120 Cong. Rec. S8437-43, (1974); H. R. Rep. No. 332, 94th Cong., 1st Sess. pp. 3-4, 10 (1975); S. Rep. No. 168, 94th Cong., 1st Sess. pp. 6-7 (1975). Thus these cases inform the meaning of the integration imperative.

In the *PARC* opinion, 343 F. Supp. 279, 283-97 (E.D. Pa. 1972) (three judge court) the Court had recited the long history of prejudice against disabled people. The Court noted explicitly, 343 F. Supp. at 297, that "Plaintiffs do not challenge the separation of special classes for retarded children from regular classes or the proper assignment of children to special classes." The court-approved consent agreement provided that:

It is the Commonwealth's obligation to place each mentally retarded child in a free, public program of education and training appropriate to the child's capacity, within the context of the general educational policy that, among the alternative programs of education and training required by statute to be available, placement in a regular public school class is preferable to placement in a special public school class and placement in a special public school class is preferable to placement in any other type of program of education and training.

The consent agreement had discouraged homebound instruction and surrounded it with requirements intended to severely limit its use, providing:

that homebound instruction is the least preferable of the programs of education and training administered by the Department of Education and a mentally retarded child shall not be assigned to it unless it is the program most appropriate to the child's capacities; . . .

that an assignment to homebound instruction shall be re-evaluated not less than every three months, and notice of the evaluation and an opportunity for a hearing thereon shall be accorded to the parent or guardian, as set out in the Order of this Court dated June 18, 1971, as amended.

Both *PARC* and *Mills*, 348 F. Supp. 866 (D.D.C. 1972), required access to schooling and established procedural due process intended, *inter alia* to encourage placement in the "preferred" or most normalized settings and to discourage placement in the most stigmatizing settings.

In *Wyatt v. Stickney* 344 F. Supp. 387 (M.D. Ala. 1972) affirmed 503 F.2d 1305 (5th Cir. 1974), speaking in substantive due process rather than equal protection language and addressing services provided to mentally retarded people then living at Partlow State School and Hospital, the Court applied the traditional doctrine that when the state interferes with a person's liberty it must do so in the least intrusive, least restrictive manner. Generally on this doctrine, see Chambers, "Alternatives to Civil Commitment of the Mentally Ill: Practical Guides and Constitutional Imperatives", 70 *Michigan L. Rev.* 1107 (1972). Judge Frank Johnson declared that residents have a right to "the least restrictive conditions necessary to achieve . . . habilitation". "No person," the Court held, "shall be admitted to the institution unless a prior determination shall have been made that residence in the institutions is the least restrictive habilitation setting feasible for that person" and "no mentally retarded persons shall be admitted to the institution if services and programs in the community can afford adequate habilitation to such persons." 344 F. Supp. at 396.

In *New York State Association for Retarded Children v. Rockefeller*, 393 F. Supp. 715 (E.D. N.Y. 1975), (the *Willowbrook* case), the court ordered that less restrictive settings be made available, and in particular ordered the creation of sufficient services in the community to reduce, within six years, Willowbrook's population from 3,000 to 350.

The cases show that the least restrictive setting requirement means that plaintiff class members must be placed in the least restrictive setting required and appropriate for the individual needs, *not* merely the least restrictive setting currently available. In *Willowbrook*, for example, where Judge Orrin G. Judd had directed that services be provided to Willowbrook residents in the "least restrictive setting possible", the parties sought a clarification of what the order meant by "possible". The court held that "possible" meant possible from the perspective of the individual's needs, not from the perspective of the service system. *New York State Association for Retarded Children v. Carey*, Memorandum and Order of March 10, 1976.

Similarly, nearly 20 state courts in Pennsylvania have denied petitions to commit children to institutions and have instead ordered state and county officials to create alternative services in the community. E.g., *Joyce* 2. 123 Pittsburgh L. J. 181 (1975). These cases and their implications are described in Coval, Gilhool & Laski, "Rules and Tactics in Institutionalization Proceedings: The Role of the Courts in Assuring Access to Services in the Community," *Education and Training of the Mentally Retarded*, Vol. 12, No. 2, p. 177 (April 1977).

Diana and Larry P. v. Riles 343 F. Supp. 1306 (N.D. Cal. 1972), aff'd 502 F. 2d 963 (9th Cir 1974), were addressed to the overrepresentation of racial, national origin and language minorities in EMR classes. While the implications of those cases for mainstreaming mildly handicapped children are profound, this paper is addressed to the integration of the severely disabled and, hence, *Diana and Larry P.* will not be discussed here. One of the authors has considered those cases — and suggested (1) that in light of the EMR efficacy studies the appropriate remedy for overrepresentation may be the abolition of EMR classes, rather than the abolition of intelligence tests and (2) that the effect of such a remedy would likely be to hasten the day when IEP's and other individualizing techniques are required for all children in general education. See Gilhool, "PARC, Lau, Rodriguez and Individualized Education", *Cross Reference: A Journal of Public Policy and MultiCultural Education*, Vol. 1, No.1, p. 27 (J. B. Lippincott Company 1978).

On the differing articulations of the integration imperative and the LRE doctrine and the similarities and differences in their scope, see R. A. Burt, "Beyond the Right to Habilitation", chapter 14 in PCMR, *The Mentally Retarded Citizen and the Law* 417 (M. Kindred et al. Eds., 1976). That article analyzes *PARC* and *Wyatt*.

5. The Judicial and Administrative Interpretation of Section 504 and P. L. 94-142

a. The Cases

The most authoritative construction of Section 504 has come from the Seventh Circuit Court of Appeals in *Lloyd v. Regional Transportation Authority*, 548 F. 2d 1277 (1977). The Court had before it the question whether Section 504 required that all buses purchased with federal financial assistance by Chicago's Regional Transportation Authority be fully accessible to the disabled (and also whether the U.S. Department of Transportation was required thusly to enforce Section 504). The defense raised by Chicago's RTA was, *inter alia*, that separate, special bus services for the disabled instead of universal access by the disabled to general-use buses satisfied Section 504. The Seventh Circuit Court of Appeals rejected that argument and held that Section 504 creates a private right of action for disabled individuals, imposes affirmative duties upon city and regional agencies and prohibits unnecessarily separate services.

(This *Lloyd* decision, the similar construction of Section 504 in *United Handicapped Federation*, 558 F. 2d 413, 416 (8th Cir. 1977) and the proceedings in *Disabled in Action of Pennsylvania, et al. v. Coleman*, C.A. No. 76-1913 Slip Opinion of March 17, 1978, eventuated in a decision by U.S. Secretary of Transportation, Brock Adams, requiring effective September, 1979 that all buses purchased with federal financial assistance must be low-floor, ramped *Transbuses*, fully accessible to disabled and elderly people.)

- A West Virginian federal district court has applied Section 504's integration imperative to education. In *Hairston v. Drosick*, 423 F. Supp. 180 (S.D. W.Va. 1976) a spina bifida child who was offered homebound instruction, a special education class, or a regular class if her mother would come to the school two or three times a day to attend to the child, sued, as did her parents, on behalf of themselves and all others similarly situated, for admission to the regular class without conditions. Their claim was based upon Section 504. The Court made extensive integration findings. The Court wrote:

There are a great number of other spina bifida children throughout the State of West Virginia who are attending public schools in the regular classroom situation, the great majority of which have more severe disabilities than the plaintiff child Trina Ewet Hairston including children having body braces, shunts, Cunningham clips and ostomies, and requiring the use of walkers and confinement to wheelchairs. The needless exclusion of these children and other children who are able to function adequately from the regular classroom situation would be a great disservice to these children. . . . A major goal of the educational process is the socialization process that takes place in the regular classroom, with the resulting capability to interact in a social way with one's peers. It is therefore imperative that every child receive an education with his or her peers insofar as it is at all possible. This conclusion is further enforced by the critical importance of education in this society.

It is an educational fact that the maximum benefits to a child are received by placement in as normal environment as possible. The expert testimony established that placement of children in abnormal environments outside of peer situations imposes additional psychological and emotional handicaps upon children which, added to their existing handicaps, causes them greater difficulties in future life. A child has to learn to interact in a social way with its peers and the denial of this opportunity during his minor years imposes added lifetime burdens upon a handicapped individual. 423 F. Supp. at 183.

The federal statute proscribes discrimination against handicapped individuals in any program receiving federal financial assistance. To deny to a handicapped child access to a regular public school classroom in receipt of federal financial assistance without compelling educational justification constitutes discrimination and a denial of the benefits of such program in violation of the statute. School officials must make every effort to include such children within the regular public classroom situation, even at great expense to the school system. 423 F. Supp. at 184.

Two other education cases, though they do not speak directly to the integration

imperative, are germane. In *Barnes v. Converse College*, C.A. No. 77-1166 (D.S.C. July 18, 1977), the court found that Section 504 required a private college receiving federal financial assistance to provide an interpreter to a deaf school teacher who enrolled as a student in its summer session to earn additional college credits. In *Kruse v. Campbell*, 431 F. Supp. 180, 185-86 (E.D. Va. 1977) (three judge court) struck down on constitutional ground a Virginia tuition reimbursement statute which failed to cover the entire cost of private schooling where the public schools failed to provide appropriate education. The court discussed both P.L. 94-142 and Section 504, found them to be complementary statutes, found the "time" provisions of P.L. 94-142 with respect to full funding overridden by the "present right of handicapped children" under Section 504 and found that Section 504 "constitutes the establishment of a broad governmental policy that programs receiving federal financial assistance shall be operated without discrimination on the basis of handicap." Significantly, the United States Supreme Court, 98 S. Ct. 38 (1977) vacated the *Kruse* court's constitutional holding and sent the case back to the district court with instructions to decide it on Section 504 grounds.

Finally, in the first case, applying Section 504 to the institutions — *Wyatt, Willowbrook* and the other institutional cases had all been decided on constitutional grounds since the statute had not been raised in those cases — Judge Broderick in *Haklerman, et al. v. Pennhurst State School and Hospital*, E.D. Pa. C.A. No. 74-1345, (Slip Opinion of December 23, 1977 and Orders and Memorandum Opinion of March 17, 1978), held that "Section 504... imposes affirmative obligations on state and local governmental officials and that under Section 504 unnecessarily separate... services are discriminatory and unlawful." The Court ordered defendants to create and maintain "community living arrangements and other community services of the necessary quality and quantity... in the least separate, most integrated, least restrictive community setting" to replace the institution entirely. The Court's order and its Section 504 holding rested upon its finding that

the retarded at Pennhurst are not receiving minimally adequate habilitation and that such minimally adequate habilitation cannot be provided at Pennhurst because it does not provide an atmosphere conducive to normalization.*

In the June 10, 1977 Memorandum Decision and Order of Judge Bartels in the *Willowbrook* case, enjoining transfers from Willowbrook to the Bronx

*Judge Broderick, who had been a member of the three-judge Court which decided *PARC v. Commonwealth of Pennsylvania*, 343 F. Supp. 279 (E.D. Pa. 1972), asked nearly all of the fourteen expert witnesses who testified in *Pennhurst* whether the residents of Pennhurst should be educated in integrated schools. All answered "yes".

Developmental Center, another segregated, handicapped-only institution, a similar finding was made:

The goals of normalization and development of the mentally retarded cannot be met until every effort is made to physically and socially integrate the class members into the mainstream of the community. Their activities should be oriented to community activities and the services delivered to them should be in the same context as community services delivered to others. . . .

[It is] in community placement where the only real improvement in the handicapped and retarded can be expected. (Slip Opinion, pp. 11,12).

The constitutional and factual themes which join in the statutory integration imperative are ably discussed in K. Kerst, *The Supreme Ct. 1976 Term - Forward: "Equal Citizenship Under the 14th Amendment"*, 91 *Harv. L. Rev.* (Nov. 1977).

b. The Administrative Interpretation

The construction of Section 504 by the Department of Health, Education and Welfare in its Regulation, 42 Fed. Reg. 22676; 45 C.F.R. Part 84, also shows that Section 504 prohibits unnecessarily separate services. According to the HEW regulation:

[S]ection 504 was intended to forbid discrimination against all handicapped individuals. Section 504. . . represents the first Federal civil rights law protecting the rights of handicapped persons and reflects a national commitment to end discrimination on the basis of handicap. . . It establishes a mandate to end discrimination and to bring handicapped persons into the mainstream of American life. 42 Fed. Reg. , 22676*

*Secretary Califano's statement when he signed the regulation was:

The Section 504 Regulation attacks the discrimination, the demeaning practices and the injustices that have afflicted the nation's handicapped citizens. It reflects the recognition of the Congress that most handicapped persons can lead proud and productive lives despite their disabilities. It will usher in a new era of equality for handicapped individuals in which unfair barriers to self-sufficiency and decent treatment will begin to fall before the force of law

In Section 504, the Congress enacted a charter of equality to help end the shameful national neglect of handicapped individuals and to translate many of their legitimate needs into legal rights

[E]nding discriminatory practices and providing equal access to programs may involve major burdens on some recipients. Those burdens and costs, to be sure, provide no basis for exemption from Section 504 or this regulation: Congress' mandate to end discrimination is clear.

Leaving no room whatever for gainsaying, the regulation, at Subpart A, 84.4 (b) (1) (iv), under the title "*Discrimination Prohibited*", flatly says:

A recipient, in providing any aid, benefit, or service, may not . . .

(iv) *Provide different or separate aid, benefits, or services to handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others.* 42 Fed. Reg., 22678.

In its analysis of this section of the regulation, "which describes the basis and purpose of [the] section", 42 Fe. Reg. 22677, HEW underscores the point:

In paragraph (iv), different or separate services are prohibited except when necessary to provide equally effective benefits

It must be emphasized that, although separate services must be required in some instances, *the provision of unnecessarily separate or different services is discriminatory.*"

The addition to paragraph [84.4](b)(2) of the phrase 'In the most integrated setting appropriate to the persons needs' is intended to reinforce this general concept. 42 Fed. Reg., 22687.

In addition to requiring integrated services to the fullest extent consistent with a handicapped individual's needs, Section 504, as the regulation construes it, requires affirmative steps to assure the integrated services are effective or "meaningful" services. The regulation at Paragraph 84.4(b)(1) says:

A recipient, in providing any aid, benefit, or service, may not . . .

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit or service that is not as effective as that provided to others; . . .

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service. 42 Fed. Reg. 22678-79.

These words parallel the similar regulations under Title VI which the United Supreme Court invoked in *Lau v. Nichols*, 414 U.S. at 566, in holding that Section 601 of the Civil Rights Act imposed a duty to take affirmative action to provide "meaningful" education to Chinese-speaking children.

Indeed, HEW's analysis of Paragraph 84.4(b)(1) finds the *Lau* standard implicit in Section 504:

In paragraph (iv), different or separate services are prohibited except when necessary to provide equally effective benefits.

In this context, the term "equally effective," . . . is intended to encompass the concept of equivalent, as opposed to identical, services and to acknowledge the fact that, in order to meet the individual needs of handicapped persons to the same extent that the corresponding needs of nonhandicapped persons are met, adjustments to regular programs or the provision of different programs may sometimes be necessary. For example, a welfare office that uses the telephone for communicating with its clients must provide alternative modes of communicating with its deaf clients. This standard parallels the one established under Title VI of Civil Rights Act of 1964 with respect to the provision of educational services to students whose primary language is not English. See *Lau v. Nichols*, 414 U.S. 563 (1974). 42 Fed. Reg. 22687.

In addition, like Title VI, as construed in *Lau*, Section 504, as the regulation construes it, not only requires that a recipient change any policies or practices which do not meet the requirements of Section 504, but requires also that a recipient take *"appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices."* Paragraph 84.6(c)(1)(iii), 42 Fed. Reg.

The specific rules and mechanisms set out in the school-specific Regulations under P.L. 94-142 and Section 504 reflect the same interpretation of the statutes and find the same meaning in them, although, for the reasons indicated below, the Regulation-specified mechanisms are insufficient to secure compliance with the statutes integration imperative. Their particular defect is in their over-reliance (indeed, their nearly sole reliance) upon individualizing mechanisms, like parent conference, IEP's, and due process hearings, for the implementation and enforcement of the integration imperative.

CHAPTER II: IMPLEMENTATION AND ENFORCEMENT MECHANISMS NECESSARY TO ACCOMPLISH THE INTEGRATION IMPERATIVE

6. The Single, Simple and Central Measure of Compliance

Given the meaning of the integration imperative set out above the necessary measure of compliance with the integration imperative requires a rather straightforward 3 steps:

1. Project the prevalence of children whose disability does not allow them to move from their home setting for schooling, or whose learning requires, for a

brief time-limited period and/or specific purposes, that they be schooled in isolated settings, with no interaction with other children. All others can, and therefore need be, schooled in regular classes (and its variation) or in special classes located in schools where non-handicapped children are schooled.

2. Determine the present configuration, in each LEA and in each State, among (a) regular classes, (b) special classes in schools where non-handicapped children are schooled, and (c) isolated, segregated settings.

3. Set goals and timetables to conform the configuration of placements found in 2. to the criterion established in 1.

Thus, a single outcome measure of compliance is possible. As to Step 1, HEW/BEH should project the modal configuration of placements which would obtain if the common prevalence figures and professional standards are applied to define how many children are to be educated in integrated settings and how many children *require* isolated settings. In *Halderman, et al. v. Pennhurst State School and Hospital*, for example, expert testimony showed that in the Philadelphia metropolitan area of 5,000,000 people, 40 severely/profoundly retarded/multiply-handicapped people would at any given time require that all services be delivered in one place. Of the 185 severely/profoundly retarded/multiply handicapped children of school age resident at Pennhurst, all but approximately a dozen of them can and do travel outside Pennhurst for schooling, albeit to a segregated handicapped-only special education center.

Among the sources available for determining the prevalence of disabling conditions are the surveys noted in the Rand handicapped services study (Kakalik, et al., *Services for Handicapped Youth: A Program Overview*, R-1220 HEW, May, 1973, pp. 128-129) and in the Urban Institute comprehensive service needs study (Urban Institute *Report of the Comprehensive Service Needs Study*, HEW 100-74-0309, June, 1975, pp. 66-71).

As to Step 2, the LEAs and the SEAs can enumerate the present configuration of placements among settings a), b) and c) in the annual application and the annual state plan, and should be required to do so by HEW/BEH.

As to Step 3, in any LEA or SEA which the configuration reported in the application or state plan does not conform to the modal configuration, the LEA and SEA can formulate goals and timetables for the phased achievement of the modal configuration over a time-certain, and should be required to do so by HEW/BEH. The application and plan submissions should provide specific plans for the several dimensions of action necessary to achieve effective integration, including the preparation of space and the preparation of parents, teachers and children, handicapped and non-handicapped alike, perhaps on the model of the very successful integration reported in Hambleton & Ziegler, *The Study of the*

*Integration of Trainable Retarded Students Into a Regular Elementary School Setting** (Research Department, The Metropolitan Toronto School Board, 1974. The goals, timetables and plans should be reviewed by HEW/BEH for adequacy.

These implementation and enforcement measures and mechanisms parallel those used in the implementation and enforcement of racial integration imperatives of Title VI of the Civil Rights Act of 1964. They also parallel the measures and mechanisms set up in HEW's guidelines for Implementation of Section 504 by Other Departments, 43 Fed. Reg. 2132 (January 13, 1978), and the United States Department of Transportation's Proposed Regulations, 43 Fed. Reg. 20516 (June 8, 1978) for bringing fixed rail and subway transit systems into compliance with Section 504. Those guidelines (See §85.57(b), for example) and proposed regulations contemplate a definite time period (e.g., three or twelve years) for high-cost alterations of the system and require a plan for compliance within that time.

Of course, there are additional and important criteria for effective compliance with the integration mandate. Because of the importance and the potential effectiveness of a single outcome measure (and because of its absence from the current implementation and enforcement scheme) the authors have chosen to focus upon it. As to other criteria, the authors would adopt the analysis of the elements of effective integration set forth in Brown, Wilcox, Sontag, Vincent, Dodd & Grunewald, "Toward the Realization of the Least Restrictive Educational Environments for Severely Handicapped Students", *Review, A.A.E.S.P.H.* vol. 2, No. 4, p. 195 (December, 1977). Each of those elements (Id. at pp. 199-200) can be translated into concrete operational measures and addressed in the LEA application and SEA state plan, the enforcement mechanisms which are given central place in P.L. 94-142.**

* In Toronto, "trainable" ranges to I.Q. 20.

**One element of effective integration analyzed by Brown, et al., namely, the ratio between handicapped and non-handicapped students, suggests a particularly salient mechanism for securing compliance with the integration imperative. In Pennsylvania, as in most states, state approval of school construction is required as a condition of state financial participation in the costs of construction. Pennsylvania Department of Education *School Building Standards* have for more than two decades required that 5% of all the space in *all* new school buildings be available for special education. This requirement has been honored chiefly in the breach. It is likely that most states have and have long had similar school building standards. If so, they provide a basis for the recovery of integrating space in regular school environments for disabled children. If not, such "set asides" may be required under Section 504 and P.L. 94-142. (It should be no surprise that the 2% of the school age population of any given chronological age who are severely handicapped, Brown, et al. at p. 197, is less than the 5% set aside.)

7. The Insufficiency of Individual Process Mechanisms to Secure Compliance With the Integration Imperative.

Present implementation and enforcement mechanisms rely heavily (indeed, almost exclusively) upon individual process mechanisms to secure compliance with the integration imperative. HEW's P.L. 94-142 LRE Regulations in comment to 121 a. 552, 42 Fed. Reg. 42497 (August 23, 1977), for example, recite: "The overriding rule in this section is that placement decisions must be made on an individual basis." That statement is indisputably true in one sense; but vitiatingly false if applied in another sense. Yes, the proper place for the education of each child must be determined individually. No, that does not mean that defining configuration of placements must await that individualized process. Certain system-wide projections and plans can and must be made and enforced. Not to do so is to maintain the largely segregated configurations which now exist for the severely disabled (something the Congress did not intend), for as Brown, *et al.*, at p. 201, write: "If a segregated facility is built or kept open, society undoubtedly will place students there."

Divining the practical uses to which individual process mechanisms — conferences, IEP's, due process hearings — may in fact be put is a delicate judgment. It is, however, a judgment as to which we have significant data, from a three year National Institute of Education study of the implementation of the PARC decree by Kuriloff, Dworkin, Buss, and Kirp as well as from more general studies. The studies show that individual process mechanisms can and often do function to assure a proper placement *among the alternatives available*, but they do not reliably or systematically function to generate alternatives not yet available. They are useful to individuals; they are not so useful to secure *structural* change. Therefore to place upon individual process mechanisms the burden of changing the configuration of placements to which children are assigned, when we know that overwhelmingly the placements for severely disabled children are in segregated settings, is to forfeit compliance with the integration imperative.

The preliminary conclusions of the NIE study are reported in Kirp, Buss & Kuriloff, "Legal Reform of Special Education: Empirical Studies and Procedural Proposals", 62 *California L. Rev.* 40 (1974); Kuriloff, Buss & Kirp, "Legal Reform and Educational Change: The Pennsylvania Case", *Exceptional Children* (September, 1974); and final conclusions are reported in B. Dworkin, "An analysis of Due Process Hearings in Pennsylvania" (Ph.D. Thesis, Univ. of Pa.), and Final Report, Project on Student Classifications and the Law N.I.E. generally on the constraints on (and hence the ways and means of) structural change in school systems. See Kirp, "Schools as Sorters: The Constitutional and Policy Implications of Student Classification", 121 *U.Pa. L. Rev.* 705 (1973).

PART C
The View from the Panel

INTRODUCTION

The 2-day panel meeting provided an opportunity to bring together a small but diverse group of educators to react to both the study and the LRE position papers. The group included representatives from state and local education agencies, private schools, university departments of special education, and the Bureau of Education for the Handicapped. Following initial BEH presentations by Dr. Linda Morra and Dr. Mary Kennedy which set the general context for the study, authors presented summaries of their papers and responded to questions and comments. During the afternoon, panel members discussed various issues related to the study and/or specific papers. On the second day, small groups were formed to continue discussion of issues and develop recommendations. Following the small group session, a general session was held to share results. The next sections provide an issue-by-issue summary of the panel discussion and recommendations.

THE ISSUES

The Concept of Progress Towards Implementation

The placement of handicapped children in the least restrictive environment appropriate was recognized by the panel as a right which is likely to be enduring. Participants discussed the need to move from understanding of the mandate or law and regulations to conceptualization of a model and implementation of the model. Implementation, in turn, was viewed as a feat which went beyond compliance and would not be achieved in a brief period of time. As stated by one panelist in reference to full acceptance of handicapped individuals in our society: "We are talking about a period of years at the end of which we reach the goal of the LRE provision . . ."

To one panelist, the LRE provision requires goals and timetables to achieve integration with the timetables indicating a reasonable set of tactics for LEAs to reach objectives such as attitude change. To ensure movement towards the goal of integration of handicapped children, documentation of movement on an agreed continuum of processes was advocated. Another panelist expressed the task as: "... trying to give the LEAs a format with enough flexibility so that the LEA can develop its own individualized plans for reaching this thing called LRE." The proposed format was derived from the individualized education program (IEP) structure. First the LEA would assemble a team whose job it would be to develop the LRE policy. The second step, akin to diagnosis or assessment, would be for the LEA to determine its present status with respect to LRE implementation. This step might involve, for example, a count of handicapped children by their current placement setting or a listing of inservice LRE needs met and unmet. The third step is to develop objectives for LRE

implementation and the standards for meeting those objectives. Next, is a prioritizing of objectives, and finally, an evaluation of the extent the objectives have been met.

Letter Versus the Spirit of the Law

While there was agreement with the concept of progress in implementation, there was little general agreement as to whether "progress" meant movement from implementation which meets the letter of the law to implementation which meets the spirit or intent of the law. Three different points of view were expressed by panelists.

One view was that essentially there is one standard for implementation of the LRE provision. The standard is the letter of the law or compliance as presently defined by BEH in the regulations. One panelist expressed the opinion that rather than implementation meeting the spirit of the law, there is "merely a spirit in which the letter of the law is implemented." An illustration was provided: "We're going to put deaf kids in school with normal kids. That is the letter of the law. The spirit is when you teach all the normal kids how to do sign language. . . We're all going to have to reach the same ends, [but] some will do it with more grace than others." In other words, while the common objective is compliance, there may be best practice examples of implementation which can be identified and disseminated.

An opposing view was that there is a continuum of implementation which goes from the letter to the spirit of the law, and the continuum should be defined, although it was not clear who should do the defining. The view was well-summarized by this panelist: "I think there is a continuum - that there are parameters and we can deal with them. We need a system of alternatives that begins with the minimum and enables one to go beyond. We all can comply with minimal standards by reshuffling the deck a little bit . . . I think we ought to get away from minimum standards for everybody." Recommendations of these panelists were for "procedural alternatives that will enable a poor school district with a limited amount of resources to accomplish something, as well as the kinds of alternatives that will give ideas to the most 'well-to-do' systems" with respect to LRE implementation. While it is not within the role of BEH to develop such a continuum, BEH would, for example, support a descriptive study of LRE implementation which might describe best-practice models used by school districts with varying amounts and kinds of resources at their disposal.

The third point of view was that although there may be a continuum of implementation from that which meets the letter of the law to that which meets the spirit or intent, most school systems are nowhere close to dealing with a maximal implementation concept. One panelist expressed it this way: "I don't

think we're at all ready to deal with from here to there [minimal to maximal implementation]. I think we need to deal with from here to here. We're not near complying with the letter of the law in most school districts. We don't even really know what compliance with the letter of the law means." Thus, this third group of panelists felt that, at least for now, the only critical needs are for definition of compliance and steps which would indicate movement towards implementation with the LRE doctrine. The implication was that states should disseminate compliance standards to LEAs. Rather than assume compliance in the absence of a complaint, such dissemination would allow LEAs to take a proactive rather than reactive stance.

The Goal of the LRE Provision

As is evident from the preceding discussion as well as a reading of the position papers, there was no clear agreement on the goal of the LRE provision. For some panelists the goal was the full integration of handicapped children with nonhandicapped children. For others the goal was that every handicapped child would be in the least restrictive educational environment appropriate for that child.

The implications become apparent when the question is asked, as was by one of the panelists, how are you going to know when you have achieved the goal? At one level the goal is achieved if there are no complaints, but since panelists were divided on the definition of the goal, each side could have a complaint about the other. Proponents of the integration imperative offered one response to the question but only in relation to severely handicapped children: First there is a projection of the prevalence of children whose disability does not allow them to move from their home setting for schooling, or whose learning requires for a brief period of time and/or specific purpose, that they be schooled in isolated settings. Second, each LEA determines the present configuration of handicapped children in regular classes, self-contained classes in schools with nonhandicapped children in regular classes, self-contained classes in schools with nonhandicapped children, and special schools. The goal of LRE is achieved when the configuration of LEA placements conforms with the prevalence figures. Again, the rules are seen as most applicable to severely handicapped children.

Other panelists rejected this approach, even for severely handicapped children, and argued that there were valid reasons for placements in handicapped-only centers. In the end, no clear response other than the federal position was offered to the question of how will you know when you have reached the goal and each handicapped child is placed in the least restrictive environment appropriate for him or her? Panelists reinforced the idea, however, that the LRE doctrine relates to all handicapped children, not just those who are institutionalized, and that the task remains to come to some agreement on LRE implementation and ways

of achieving it which cut across the categories of handicapping children.

The Implementing Regulations

The panel agreed that parts of the LRE regulations could be used as rationales for overly restrictive placements and for preserving a system's status quo. Much discussion centered on the regulation sections dealing with potential harmful effects on the child and the quality of services needed. Fears, for example, that a child might be taunted and emotionally harmed by rejection from nonhandicapped peers could be used as a justification for a more restrictive placement on a continuum of placement alternatives. A more restrictive placement could also be selected on the argument that the quality of services offered by the special education teacher is superior to that of the regular classroom teacher because of differences in teacher training.

Several panelists viewed these potential problems as again indicating the need, at least at the State or local level, for delineation of the steps or procedures which would indicate implementation of the LRE provision. One panelist pointed out the need for LEAs to respond to questions such as: What steps are you taking to reduce the harmful effects (e.g., psychological stress from peer taunting) that might accrue to handicapped children? What inservice training have you provided to parents? To teachers? Have you evaluated the effectiveness of the inservice training? Another panelist suggested evaluating existing models which have the objective of attitude change and inservice training packages in order to identify those which have "a good track record" and disseminating this information.

Self-study Guides

There was considerable discussion of the advantages and disadvantages of self-study guides, their content and audience, as well as possible developers of guides. Alternatives were discussed such as guides which discuss LRE issues, guides which would define LRE implementation and present checklists with which a district could determine if they are in compliance, and resource guides which would offer LEAs alternative strategies for dealing with common problems in LRE implementation. While there was consensus that LEA administrators, particularly principals, were the audience for self-study guides, it was pointed out that states vary in the LRE policies and procedures they have established. Within a certain band of tolerance, each state gets to do things its own way. Thus, there are difficulties in developing a guide which will meet the needs of 58 states and trust territories. With respect to the development of guides, some panelists felt that regular and special education professionals should be involved. Other panelists recommended that the effort be as interdisciplinary

as possible.

THE RECOMMENDATIONS

All three of the panel subgroups recommended the development of guides or models which would offer self-study strategies to LEAs. The groups differed, however, in their description of the focus of the guides and their views of who should develop the guides. Group I basically recommended the development of a self-study guide which would define compliance with the LRE provision and present alternative strategies for both reaching compliance and achieving quality or best practice implementation of LRE. Group II proposed a self-improvement guide, not a technical compliance manual, which would guide movement toward quality and best practices. Group III recommended that BEH *not* develop a self-study guide, but instead, leave it to SEAs to develop their own guides. States would then be advocates of the guides and the guides would be consistent with state policies.

Group I

As viewed by this group, a self-study guide on the implementation of the LRE provision would have four major sections. The first section, which could be titled: "What is LRE?" would present a complete definition of LRE implementation from a compliance perspective. The second section, basically a set of check points or markers, could be titled: "How do you determine if you are there?" One check point or marker, for example, might be: "Does your system have almost no handicapped students in handicapped-only centers?" If the response is affirmative, the user would proceed to the next check point or marker. If the response is negative, the user would turn to the appropriate part of section three: "What do you do if you are not there?" This section would attempt to identify the type of problem (e.g., transportation, staff expertise, lack of building space, etc.) and present alternative strategies for remediation of the problem. Section three would also use anecdotes to illustrate how other school systems have dealt with similar problems. The fourth section of the guide — "What do you do once you're there?" — would again use anecdotes to illustrate best practice cases.

The group also felt that there were two levels which should cut across the four sections, the school district level and the individual case level. The rationale for the distinction between levels was that the problems in implementation are likely to differ at the two levels. The group also suggested that at both levels the problems of urban and rural districts should be separately addressed. Further breakdowns, such as elementary and secondary education distinctions, were recommended for consideration.

In terms of development, the group recommended that the guide be supported by BEH, but that organizations such as NEA, CEC and AFT be involved in its development. Upon completion of the guide, it was suggested that a sample of SEAs and LEAs, some that are in compliance with the LRE provision of the law and some that are out of compliance, critique the guide in terms of its utility.

Group II

Group II's recommendation was for a self-improvement guide and not a technical compliance manual. While the objective of the guide would be to facilitate movement of LEAs towards quality implementation of the LRE provision, the guide would not present implementation standards beyond the law and regulations. Instead the guide would focus on best practice types of processes which could be used to implement the provision. The guide would illustrate the "difference between minimum or 'bare bones' compliance and really taking the task and doing a model job with its implementation."

In specifically considering the format of the self-study guide, the group recommended the guide be limited to the LRE provision, but that it be cross-referenced with similar guides on implementation of the individualized education program, protection in evaluation procedures, and due process provisions. The group further recommended that technical writers, using the concepts in the LRE position papers, develop a single guide which would then be reviewed by a panel of SEA and LEA representatives. Following this initial review, the guide would be field-tested at both the SEA and LEA levels and revised into a final document.

In addressing the specific content of the guide, the group made the additional suggestion that the guide consist of five sections. The first section would define the law and regulations in terms of the LRE provision and also specify the uses of the guide. The second section would concentrate on planning for LRE implementation, especially at the district level. The next section would contain forms and checklists which could be used to help document the procedures and criteria used in reaching or monitoring placement decisions. The fourth section would provide for self-analysis of federal, state, and local LRE policies and procedures. This section would identify areas of potential or actual conflict. Finally, a reference section would be included. The group recommended that elementary and secondary education level distinctions be addressed, but did not suggest any particular format.

Group III

Group III reached the decision the BEH should not develop self-study guides,

but instead should promote discussion of the position papers through various organizations, the regional resource centers, and SEA level workshops. It then should be left to the SEAs to determine whether or not they want to develop self-study guides, and if so, determine how the guides should be developed. The group felt that if SEAs decided to develop guides, school principals would be the primary audience. An additional suggestion was that the states use their intermediate education units (IEUs) to provide evaluation and other technical assistance to LEAs in conjunction with the guide.

While generally the group left the content of the guides to SEAs, the need to address practical problems was expressed. Examples were given such as forming collaborative relationships, physically moving handicapped children from segregated buildings into integrated buildings, and facilitating the social integration of handicapped children in classes with nonhandicapped children.

As an effort unrelated to self-study guides, the group recommended that BEH disseminate a clear policy statement on LRE implementation. This statement would include compliance standards, delineation of the rigor with which they would be enforced, and explanation of how the standards would relate to the issue of quality over time.

SUMMARY AND CONCLUSIONS

Commonalities among the three subgroups can be identified as follows:

1. All groups agreed with the BEH position that Federal standards, other than compliance criteria, are neither desirable nor intended. At a maximum, panelists viewed the Federal role as disseminating the compliance procedures or supporting technical assistance efforts of other educational groups or organizations, such as state education agencies.
2. All groups saw more immediate need for technical assistance manuals than for evaluation methodologies. Emphasis was placed on the identification of best-practice procedures or models, particularly LRE implementation strategies that have been used successfully by LEAs in varying contexts.
3. All groups recommended that BEH disseminate its compliance standards, although not necessarily as part of the above effort.
4. The groups recognized the many difficulties involved in developing materials which would meet the needs of 58 states and trust territories. Different strategies were recommended to resolve the difficulties.

The BEH is already engaged in efforts which should meet some of the technical assistance needs delineated by these panelists. One study, currently being conducted, will describe strategies being used by local administrators to implement the LRE provision with the objective of identifying best-practices. A

second study will describe LRE decision-making procedures and criteria in use at the local level, again with the objective of best-practices identification. In addition to these efforts, BEH has developed its compliance or Program Administrative Review procedures. Finally, dissemination of these position papers should stimulate other thoughts on achieving implementation of the LRE provision. Panelists found the papers helpful, and spoke of taking the position papers home and sharing them immediately with others who they thought would be interested. It is our hope that this monograph stimulates the thoughts of others as well.

LEAST RESTRICTIVE ENVIRONMENT CRITERIA STUDY PANEL PARTICIPANTS

April 19 - 20, 1978

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